

National Council of Disability Determination Directors (NCDDD)

Position Paper: Vocational Regulation Reform

Situation

Each state has disability examiners who review disability benefit applications received from the Social Security Administration (SSA) field offices. These disability examiners collect relevant evidence, both medical and vocational, and follow a sequential evaluation process to determine medical eligibility for Title 2 (SSDI) and Title 16 (SSI) benefits. These state employees are led by Disability Determination Directors, whose membership makes up the core of the National Council of Disability Determination Directors (NCDDD). NCDDD is seeking Congressional support to reform disability vocational regulations.

Currently, there is a historically high backlog of more than one million, initial-level pending disability benefit applications, soaring case processing times and the highest national attrition rate in 20 years of staff at the state Disability Determination Service offices. This is widely surfaced in the media and SSA has acknowledged the challenges of these unprecedented barriers we face in serving the public.

The job of the Disability Examiner has become untenable and that is a strong contributing factor in both the length of time a person waits for a decision and Disability Determination Services staff attrition. These vocational regulation inefficiencies create a significant administrative burden for people applying for disability benefits and Disability Determination Services staff, which significantly slows down the disability decision process.

We need help from Congress to reform vocational regulations. SSA has reported for more than 16 years there is work being done to update vocational regulations, however there is no estimated timeline, no Disability Determination Services staff who are closest to this work included in updating vocational policy regulation, and no meaningful updates provided from SSA on this work to the Disability Determination Services Directors. SSA notes that these changes require Congressional support. For these reasons and in support of people seeking a timely decision on disability benefit applications, NCDDD requests collaboration with Congress for vocational regulation reform.

Background

For more than 30 years the [Code of Federal Regulations § 404.1560](#) and [§ 416.960](#) have directed use of a 15 year work history as a vocational factor. These regulations require Disability Examiners to gather extensive details from people applying for disability benefits on any jobs the person held within 15 years. The current vocational regulations state that skills learned in any job within the last 15 years must be considered when determining whether a person can perform either past work or other work in the national economy. It must be noted, the job market has changed drastically in the last 15 years and many previous jobs now require different skills or are now obsolete.

We believe that modernization of vocational regulations is critical to the Disability program. In particular, the relevant work timeframe used in disability determinations needs to be reduced from 15 years to 5 years. The vocational regulations utilized to make disability decisions were written more than 30 years ago. At that time, individuals did not change jobs as often and the rate of change in almost all industries was much slower. Jobs did not radically change as quickly, and skills learned on the job were relevant for 15 or more years. These same assumptions do not hold true in our modern economy. Change has accelerated rapidly, and skills learned in employment are no longer relevant for 15 years. Aligning the regulations with the current realities of the labor market, economy and medicine are essential to a fair and realistic decision process. In addition, changes will assist Disability Determination Services staff in making more efficient and timely determinations for the people we serve by reducing the intensive administrative burdens these regulations require.

In today's economy it is a significant burden, to ask a person for 15 years of detailed and complex information about every job they held in the last 15 years and people are regularly unable to remember information. People change jobs more frequently now than they have in the past, and people are regularly unable to remember detailed information we are required to obtain – such as how much a specific part weighs, how many minutes a day they had to stoop, the

National Council of Disability Determination Directors (NCDDD)

Position Paper: Vocational Regulation Reform

specific month(s) they worked a job, etc. – regarding work they may have briefly performed over a decade ago. To gather the detailed information necessary to make an accurate vocational determination, people must engage in lengthy

interviews with Disability Examiners. The information reported within these interviews is typically sparse and inaccurate, as people cannot remember the details necessary to make policy-compliant determinations. These interviews routinely

make material differences in the decision for the disability benefit application for the person. If the person cannot remember the specific details of all jobs within the last 15 years, policy directs the Disability Examiner to contact third parties or even previous employers. These attempts at contact are largely futile. Previous employers often don't remember the person and third parties don't know what the person did in their previous jobs and are unable to answer questions such as, "How much did the person lift?" or "How many minutes a day did the person stoop at this job?". Often, the Disability Examiner must close the case as a denial due to insufficient evidence which feels unfair to the person. These issues are prevalent in all claims, but they are especially problematic with people who suffer from memory problems, such as individuals who have had strokes, traumatic brain injuries, or those who have other neurocognitive conditions.

There is a lot of agreement between SSA and NCDDD on the vocational regulation changes necessary to modernize the vocational evaluation process. NCDDD has advocated to SSA the need for changes with vocational regulations, for example the form used to collect the work history information. SSA has identified that a change submitted to OBM in December 2020 to address the Paperwork Reduction Act has yet to be considered and returned to SSA. This is an example of continued delays negatively impacting the disability process we use to serve people, as no additional changes can be made to the work history form until the change submitted in December 2020 is returned.

Assessment

NCDDD has a long history of advocacy for policy simplification. Determining whether someone can or cannot work is complex and continues to grow in complexity. The analysis of age, education, and work experience, in combination with the individual's residual functional capacity in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work is a broad area of potential for modernization and simplification.

The primary vocational regulation change requested is to shorten the work history timeframe from 15 years to 5 years. With this change, we will decrease backlog and processing times, improve attrition rates, and significantly alleviate the administrative burden on people applying for disability benefits.

The process required to make policy-compliant vocational determinations is intensive and unfair given current economic conditions, and they need to be changed. Without help from Congress, we fear the change process will stall to the detriment of the disability program and the people we serve.

Recommendation

SSA and NCDDD agree on a lot. We know the specific changes that need to move forward, they are just not happening. SSA's Office of Disability Policy (ODP) and Office of Vocational Evaluation and Process Policy (OVEPP) agree with the Disability Determination Service communities that vocational reformation is essential to the survival of the program, and yet there is no timeline or meaningful action from SSA leading to change. The need for vocational regulation changes is a bipartisan issue and we are hoping Congress will help. It will take all of us working together to serve people appropriately, decrease the backlog and improve attrition rates.

NCDDD asks for the opportunity to work with Congress to further education and action for Vocational Regulation Reform.