



# Understanding Expedited Reinstatement

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## Introduction

The Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 created an important work incentive called Expedited Reinstatement (EXR). EXR is a way for a beneficiary to return more quickly to Social Security disability benefits when his or her work significantly reduces or stops. The former beneficiary must have the same or a related disability as the earlier entitlement, and the person must again be unable to perform SGA. EXR permits individuals to receive provisional payments while Social Security is processing the reinstatement request.

Prior to January 1, 2001, once Social Security terminated a Title II disability or SSI record, the only way someone could receive payments again was to submit an entirely new application for benefits. This is often a lengthy process requiring a new medical determination of disability. With the enactment of the EXR provisions, eligible individuals whom Social Security terminated because of work received a valuable alternative to re-application. In October 2005, final federal regulations further expanded and clarified the EXR provisions.

## Expedited Reinstatement (EXR) Basics

- EXR is available to former Social Security disability beneficiaries including those who received Social Security Disability Insurance (SSDI), Childhood Disability Benefits (CDB), or Disabled Widow(er)'s Benefits (DWB). It's also available to people who received SSI payments based on disability or blindness.
- Social Security must've terminated the individual's prior entitlement due to work activity, NOT medical recovery or any other reason. For Title II disability beneficiaries, this means Social Security determined the individual to have engaged in Substantial Gainful Activity. For SSI recipients it means that countable earned income was sufficient to cause the loss of cash benefits as well as 1619(b) extended Medicaid coverage.

- Individuals requesting EXR may not be performing SGA at the time of the request.
- The individual must be unable to perform SGA due to the same disability (or a related disability) that entitled the beneficiary to payments previously.
- The EXR provision allows an individual to receive up to six months of provisional (temporary) cash benefits while Social Security conducts a medical review to determine whether the agency can reinstate the individual to benefits. The individual may also be eligible for Medicare or Medicaid coverage during the provisional benefit period.
- There is an important deadline for Expedited Reinstatement. To receive EXR benefits under any of the Social Security disability programs, the beneficiary must request the benefits within 60 months of when Social Security terminated the prior benefit, unless Social Security can substantiate good cause. Thus, if a person's disability causes the reduction or cessation of work more than five years after Social Security terminates the record, EXR won't be available, and the beneficiary must file a new application for benefits.

## **When EXR Applies – Understanding Termination**

Expedited Reinstatement affords eligible individuals a quick way to re-establish entitlement for Social Security disability benefits after the agency terminated those benefits due to earned income and work activity.

Termination, under Social Security rules, doesn't just mean that cash payments have stopped. It means that Social Security has terminated the computer record that maintains payments. Once Social Security has terminated a person, it takes a formal re-entitlement or re-instatement decision to reopen the computer record in order for payments to begin again.

**REMEMBER:** Termination is more than just stopping payments. Termination is more than cessation, suspension, non-payment, or any other term Social Security uses to denote merely the loss of cash payment. It means that no more benefits are payable based on that application.

### **Title II Disability Beneficiaries (SSDI/CDB/DWB)**

To expedite the reinstatement of benefits, Social Security must've terminated the earlier record. That means individuals receiving Social Security disability benefits must've worked through all of the work incentives. That means they have used their Trial Work Period and Extended Period of

Eligibility, engaged in SGA, used the Cessation Month/Grace Period, and have a terminated Social Security record.

Individuals who are still in their Extended Period of Eligibility don't need to request EXR, as Social Security hasn't fully terminated them from benefits. Beneficiaries reinstated during the Extended Period of Eligibility (EPE) don't have to prove their disability again, unless it's time for a regularly scheduled CDR. For Social Security to reinstate their benefits during the EPE, beneficiaries merely need to submit documentation that their countable wages have fallen below SGA or their employment has ended.

Individuals who are in their Extended Period of Medicare Coverage but whom Social Security terminated for cash benefits and are beyond their Extended Period of Eligibility may also request Expedited Reinstatement.

### **Supplemental Security Income Recipients (SSI)**

To be eligible for EXR, SSI recipients must exhaust all of the SSI work incentives, including 1619(b). These individuals must earn wages in excess of the applicable threshold amount long enough that Social Security terminated the SSI record. For this to occur, an individual must not be eligible for SSI payments or Medicaid under 1619(b) within the 12-month suspension period.

Like Social Security Disability beneficiaries in their Extended Period of Eligibility, individuals who received SSI or 1619(b) within the prior 12 months don't have to reapply or request EXR, as they aren't fully terminated from benefits. These people only need to show Social Security that their income has dropped for reinstatement.

### **Requesting EXR vs. Reapplying for Benefits**

Social Security's Program Operations Manual System (POMS) specifically states that EXR and reapplication are mutually exclusive. CWICs may need to help some individuals understand how EXR and reapplication differ.

CWICs may also need to help individuals explain some of their unique needs to Social Security when seeking information about which to request. This is an important decision that requires consideration and weight of the following factors:

#### **Waiting Periods**

One of the potential disadvantages of pursuing a new application over requesting EXR is that some disability benefits require that the beneficiary serve a waiting period before cash payments may begin. Social Security Disability Insurance (SSDI) and Disabled Widow(er) Beneficiaries serve a waiting period before Social Security will pay benefits. This waiting period is five full calendar months after the date the disability began. Childhood Disability beneficiaries (CDBs) never serve the five-month waiting period.

Once Social Security terminates SSDI benefits due to work, there is a five-year (60-month) period after the termination during which former beneficiaries can apply and Social Security can re-entitle them without their having to serve another five-month waiting period. Persons who apply and whom Social Security re-entitles in this manner also receive a new set of work incentives as soon as Social Security benefits are awarded (i.e., Trial Work Period and Extended Period of Eligibility). Social Security may also re-entitle Disabled Widow(er)s without a waiting period within five years of termination. Social Security limits their re-entitlement, however, if more than seven years have passed since the agency terminated their benefits. In that case, however, the widow(er) over age 60 can apply for Widow(er) s Insurance Benefits (WIB) that Social Security doesn't base on disability. There is no waiting period at all for WIB.

Individuals may re-apply for SSI at any time after termination. Keep in mind that termination due to earned income doesn't occur until after a person has been ineligible for 1619(b) extended Medicaid for more than 12 months. If termination has occurred because of unearned income or resources, a beneficiary may move back into cash payment status without filing a new application if the beneficiary is eligible again within 12 months after Social Security suspended his or her benefits. If termination occurred because of earned income, it's highly likely that re-application will result in an award of SSDI instead of or in addition to SSI, as the individual will now have earned work credits and may have achieved insured status. Keep in mind that SSI is always the benefit of last resort. Applicants are required to apply for all other benefits they might receive before Social Security awards SSI. Only Social Security staff can calculate whether or not a claimant has established eligibility for SSDI.

### **Medical Disability Determinations during EXR and Reapplication**

To understand one of the unique advantages of EXR over reapplication, one needs to know a little about the disability determination process.

Each state has a subcontracted agency called the Disability Determination Service (DDS) that makes disability decisions for Social Security. There is a difference between the way these agencies look at initial applications for disability benefits and the way they make decisions about continuing the benefits at periodic reviews.

When initially applying for benefits, claimants must have disabilities that prevent them from performing substantial work. They must not only have severe disabilities, but Social Security must expect these disabilities to last more than 12 months or end in the applicant's death before then. To establish that a disability exists, Social Security looks closely at the applicant's medical records.

The burden of proof lies with the person filing the claim, not with Social Security. The individual must prove that the disability meets the severity listings that DDS uses to make a decision. A listing is a description of the severity of a physical, psychiatric, or cognitive disability. Each state's DDS uses these very specific descriptions to see if the applicant is entitled to benefits. This can be a hard standard to meet, especially if the person's disability isn't well documented. Once individuals are entitled to benefits, they must periodically prove their disabilities continue. For these reviews, the DDS uses a different standard from the one it uses for initial applications. Once people are entitled to benefits, the DDS doesn't look for medical evidence proving that disabilities exist, because that has already been established. Instead, the person making the decision looks for evidence that the disability is better. If there is sufficient medical improvement, the person's benefits are terminated. This is an easier test. The person isn't proving that he has a disability, only that the disability still exists at the same level of severity.

Under Expedited Reinstatement, DDS will establish that the individual's current impairment(s) is the same as or related to the impairment(s) from the terminated entitlement. DDS uses the disability determination process that it uses with Continuing Disability Reviews (CDRs). DDS assumes that the disability is there. What it needs to establish is that the disability has the same or worse severity in order to pay benefits. This standard means that people may more easily return to the benefit rolls than they might be able to if they made a new application.

### **Provisional Payments under EXR**

Some individuals may prefer to request EXR instead of reapplying, because EXR permits provisional payments, whereas reapplication doesn't. A person may receive up to six months of provisional payments while the DDS reviews the applicant's medical records. If the DDS determines that the beneficiary has medically improved and denies reinstatement, Social Security normally doesn't reclaim provisional payments. There usually is no overpayment. This is a significant advantage of the EXR provisions.

### **Health Insurance Considerations for EXR and Reapplication**

During the time that Social Security makes provisional payments, SSDI, CDB, and DWB beneficiaries will receive Medicare, while SSI recipients will receive Medicaid health insurance coverage. If Social Security awards the reinstatement, the health coverage will continue with the payments.

If Social Security denies the EXR, the health insurance will stop with the cash payment, but Social Security won't assess overpayment. There is no provision for medical insurance during reapplication.

**WARNING:** There is one significant risk certain beneficiaries may incur when they apply for EXR. This risk is related to Medicare coverage. Under the Social Security disability program, a person may receive extended Medicare coverage for at least 93 months after the Trial Work Period ends. The person must still be disabled in order to receive this Medicare extension. If a beneficiary applies for Expedited Reinstatement, and Social Security finds a medical improvement, he or she is no longer disabled under Social Security law. That means his or her Medicare stops. If the person reapplies for benefits, instead of requesting Expedited Reinstatement, neither a denial nor approval will affect Medicare entitlement under the Extended Period of Medicare Coverage.

## **How Social Security Determines Provisional Payments under EXR**

For Title II beneficiaries, Social Security bases the provisional payment amount on the applicable percentage of the worker's Primary Insurance Amount (the worker's highest benefit), and is often similar to what the person was receiving before termination. For people who receive benefits based on their own work (SSDI), Social Security may re-compute the benefits to a higher amount if earnings of the prior termination are higher than the earnings used to calculate the initial benefit.

Primary Insurance Amount (PIA): The PIA is the result of a complex benefit calculation the Social Security Administration uses to determine the amount of payments. It's the amount in benefits that the worker would receive at full retirement age. Social Security calculates all benefits paid on this worker's record from this PIA. For example, children receive part of the worker's PIA. The child of a living worker receives up to 50 percent of the worker's PIA, but a surviving child receives up to 75 percent of the worker's PIA.

Cost of Living Adjustments (COLAs) between the last period of entitlement and the EXR request increase the provisional benefit amount for all beneficiaries. This includes the COLA increases in SSI Federal Benefit Rates, for SSI beneficiaries.

Cost of Living Adjustments (COLA)s: In recent years, Social Security has increased Social Security payments and SSI Federal Benefit Rates (FBRs) by a factor that adjusts for the increase in the cost of living. COLAs currently increase the payment amounts in January of each calendar year. When Social Security calculates the cost-of-living raises, it adds the COLA to the Primary Insurance Amount, and then figures out what beneficiaries receive based on that PIA.

Social Security bases the SSI benefit on financial need. It bases provisional benefit amounts on the individual's countable income and the current FBR. Social Security doesn't make state supplemental payments during the provisional benefit period.

### **The difference in benefit amounts between re-application and reinstatement**

Many factors could affect the amount of the reinstated payments. Social Security personnel are best equipped to estimate the differences and assist the beneficiary in understanding which option will yield a higher payment. Because of a special disability Primary Insurance Amount (PIA) guarantee, however, SSDI beneficiaries would never receive a lower benefit than the benefit he or she received before Social Security terminated the first period of disability. Here is an example of how this works:

#### Example of the difference in benefit amounts between re- application and reinstatement:

Yanna received \$900.00 a month in SSDI before she returned to work. Social Security terminated her benefit record four years ago. She has had a relapse of clinical depression and is deciding whether to reapply or request Expedited Reinstatement. Yanna checked with Social Security and found out that the benefit amount would be higher under the Expedited Reinstatement provisions, because she can access all of the Cost of Living Adjustments since Social Security terminated her prior benefits.

For Yanna, there are several advantages to reinstatement instead of reapplication. First, Social Security would add the COLAs to her previous benefit, and her benefit would thus be higher. Second, Yanna is feeling a lot of stress about being re-entitled (a new disability determination). She wants Social Security to use the reinstatement standard (CDR standard) when deciding if she is disabled. She also wants to receive provisional payments. Yanna requests EXR.

### **Family Maximum**

When Social Security calculates benefits, it must take into account the Family Maximum. This is a cap that limits how much the various family members of a worker may receive in total. Social Security pays his or her benefits first, and then whatever is left of the Family Maximum, Social Security divides among the entitled family members.

Workers receiving SSDI always receive their benefits without consideration of the Family Maximum. CDB and DWB beneficiaries, however, might receive a lower benefit because of the cap. For months of provisional benefits, individuals receive the former benefit without a reduction

due to the family maximum. Once Social Security has approved the reinstatement, the family maximum could affect CDB or DWB payments, as well as the payments of other family members on the record. This could result in overpayments.

### **Retroactivity**

Both with EXR and initial application, Social Security is able to pay retroactive Social Security disability benefits as much as 12 months prior to the date of application or request. If the agency denies an EXR request, the EXR can then serve as a protective filing for a new initial claim. However, if Social Security denies an initial claim, it doesn't protect EXR filing. This could be an important consideration if more than 12 months' retroactivity is possible under both filing options.

SSI doesn't have the same type of retroactivity built into it as Social Security Disability benefits do. In fact, the furthest an SSI request for Expedited Reinstatement can go back is the date Social Security first knew of the request.

Whether an applicant is making a request for EXR or a new application for SSI, there is a short waiting period. The month in which individuals inform Social Security that they want to apply is the eligibility month. Payments aren't possible until the next month. The benefit amount and work incentives would be the same with EXR or reapplication.

## **EXR and Work Incentives**

### **The Initial Reinstatement Period (IRP)**

An important aspect of EXR is that it allows the individual to obtain another Trial Work Period (TWP) and Extended Period of Eligibility (EPE), but not immediately. The individual must receive 24 months of EXR payments before Social Security entitles him or her to another Trial Work Period.

These 24 months don't have to be consecutive. If someone who requests EXR goes back to work above the SGA level, the 24-month clock stops ticking until he or she again stops performing SGA and Social Security entitles him or her to another EXR payment. Once the individual has received 24 months of EXR payments, he or she receives a new Trial Work Period, and Extended Period of Eligibility, and all of the other work incentives Social Security confers on initial applicants for Social Security disability benefits.

### **Medicare Coverage and EXR**



Another important benefit of EXR is that it may significantly increase eligibility to Medicare. If former Title II beneficiaries who were previously entitled to Medicare request EXR, they will receive Medicare beginning with the first month of provisional payments and throughout the Initial Reinstatement Period. Even though Social Security suspends payments and the 24-month clock stops ticking for months of SGA, Medicare coverage would continue for those months as well. Once the individual has received 24 months of payments, he or she will have free Medicare Part A as long as he or she is entitled to benefits. If the beneficiary returns to work at a level that causes suspension, he or she may access a new Extended Period of Medicare coverage.

### **Supplemental Security Income Beneficiaries (SSI)**

If the individual receives SSI, and not Social Security disability benefits, then the beneficiary can use SSI work incentives immediately after they are reinstated. Once someone receives SSI through Expedited Reinstatement, he or she must receive benefits for 24 months before again requesting EXR. If the entitlement ends before the 24 months have passed, the beneficiary would have to reapply to get SSI payments again.

### **Important Changes to the EXR Regulations**

Effective October 31, 2005, final regulations clarified the expedited Reinstatement provisions in section 112 of the Ticket to Work and Work Incentives Improvement Act of 1999.

Under the current regulations, Social Security no longer requires that the individual leave or reduce employment because of the person's disability. Instead, the beneficiary may leave or reduce employment for any reason, but must be unable to perform Substantial Gainful Activity because of the same or related disability at the point the he or she requests. Other provisions in the final regulations include:

- The opportunity to file a second request for reinstatement if Social Security denies the previous request. Social Security won't pay provisional benefits for the second request if it paid provisional benefits under the first request.
- Receiving Medicaid under section 1619(b) for a month uses one of the 24 months of the initial reinstatement period for SSI beneficiaries.
- Social Security will pay Childhood Disability and Disabled Widow(er) Beneficiaries provisional payments without consideration of the family maximum, the cap on total family benefits. If Social Security later reinstates provisional payments, however, the agency will consider the difference between the higher provisional payments and the adjusted reinstated payments an overpayment.

- A denial of EXR because an individual has medically improved will terminate Medicare entitlement under the Extended Period of Medicare Coverage. If this is a concern for a beneficiary, the individual may wish to file a new application rather than request EXR.
- Medical approval for EXR will generate a new Ticket to Work for beneficiaries, and will terminate any previously issued tickets for that individual.
- Requests for EXR made for Title II beneficiaries are effective the month that Social Security receives the request. If Social Security reinstates benefits, then Social Security will determine if any retroactive benefits are due. Retroactivity is possible for up to 12 months before the beneficiary made the request.
- EXR requests are effective for SSI the month after the beneficiary makes the request. There is no retroactivity for SSI entitlement.
- In addition, Social Security won't pay provisional benefits for any month in which a suspension or terminating event occurs under the usual rules, such as if the beneficiary is incarcerated. Social Security may recover provisional benefits as overpayments if the beneficiary knew or should've known that the beneficiary wasn't eligible for those payments.
- If a beneficiary performs SGA during the provisional benefit period, Social Security will terminate provisional benefits. The last month of provisional benefits payable is the first month of SGA. Provisional benefits don't resume after termination due to SGA.
- Under the SSDI program, Social Security will only make provisional payments to the SSDI beneficiary, and not to family members. Once Social Security reinstates the worker under EXR, the spouse or eligible children need only make a request to have Social Security reinstate benefits.
- Beneficiaries may appeal denied EXR requests. However, they may not appeal determinations Social Security makes regarding provisional benefits. The EXR request does provide protective writing for a new claim, which the beneficiary can pursue while following the EXR appeals process.

## **Frequently Asked Questions about EXR**

**If a beneficiary requests EXR or re-applies for benefits and then returns to work at a substantial level shortly thereafter, how will this affect the EXR request or the status of my application?**

If the individual plans to return to work shortly after making the EXR request or filing for re-application, then there are special considerations. Work above SGA shortly after applying, either for SSI or Social Security disability benefits, may cause Social Security to reopen and deny the application. EXR would permit provisional payment for the few months that the individual is below SGA. Social Security would suspend the payments for months above SGA, but there would be no overpayment.

### **What happens to provisional payments if the person owes Medicare Premiums?**

If a Social Security disability recipient owes back Medicare premiums, Social Security will deduct the premiums from provisional benefits.

### **Will existing overpayments affect provisional benefits?**

Social Security won't withhold overpayments from provisional benefits without the written consent of the individual. Once the agency reinstates the benefits, however, overpayment recovery follows normal rules.

### **If beneficiaries had family members receiving benefits before Social Security terminated the benefits, will Social Security owe the family members provisional payments?**

Individuals who receive Social Security Disability Insurance based on their own work may have children or a spouse who previously received benefits on their record. These family members would receive benefits again once Social Security makes the reinstatement decision. They won't be eligible for provisional payments.

### **What happens if someone was receiving CDB benefits previously, and married before or after Social Security terminated the benefits?**

When Social Security terminates CDB benefits due to marriage, individuals won't be able to apply again on that parent's record, unless the marriage was void or annulled. EXR wouldn't be possible because Social Security would have terminated CDB benefits for reasons other than work activity.

### **What happens to individuals who are eligible for both Social Security disability and SSI?**

People on SSI are required to apply for any other benefit for which they are eligible. If someone receiving SSI has earnings that drop below the Substantial Gainful Activity limit, he or she must apply or request EXR, which depends on the respective payment amounts. Social Security requires individuals who are entitled to SSI to procure whatever benefit will pay the earliest and the highest amount.

### **Are there differences in EXR if the individual is blind?**

EXR applies to blind individuals the same way it applies to other beneficiaries, with some exceptions. For blind people over age 55, a special provision may let them come in and out of payment status, depending on earnings, without having to reapply. For those individuals, EXR isn't possible. Also, when considering reapplication or EXR for blind individuals, remember that there are some differences in the work incentives. For Social Security disability beneficiaries, the financial limit that Social Security uses to consider work as substantial is significantly higher. SSI recipients can make additional deductions when considering gross income to determine what income is countable. These work incentives apply immediately if Social Security reinstates the person. Under reapplication, the limit for substantial work only applies after the Trial Work Period is complete.

**If someone reapplied and Social Security denied him or her, may the person request EXR?**

As stated earlier, it's more difficult for a person to meet the medical disability standard for reapplication than the medical standard for EXR. A person could choose to reapply, and then Social Security could deny him or her. If that happens, he or she may request Expedited Reinstatement. The EXR request date won't be retroactive to the application date.

**IF Social Security denies EXR, may former beneficiaries reapply?**

Yes, and the EXR request date will protect retroactivity for the individual's application date.