

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 to return more quickly to Social Security disability benefits when work is significantly reduced or stopped because of an individual's original disabling condition. EXR also permits individuals to receive provisional payments while the reinstatement request is being processed.

Prior to January 1, 2001, once an SSDI or SSI record was terminated, 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 who were terminated because of work received a valuable alternative to re-application. In October, 2005 final federal regulations were published which were further expanded and clarified the EXR provisions. A summary of these regulations is provided in this briefing paper.

Expedited Reinstatement (EXR) Basics

1. 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 is also available to persons who received SSI payments based on disability or blindness.
2. The individual's prior entitlement must have been terminated due to work activity, NOT medical recovery or any other reason. For title II disability beneficiaries, this means the individual was determined 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.
3. Individuals requesting EXR may not be performing Substantial Gainful Activity at the time of the request.
4. The individual must be unable to perform SGA due to the same disability (or a related disability) that entitled the beneficiary to payments previously.

5. The EXR provision allows an individual to receive up to 6 months of provisional (temporary) cash benefits while SSA conducts a medical review to determine whether the individual can be reinstated to benefits. The individual may also be eligible for Medicare and/or Medicaid coverage during the provisional benefit period.
6. There is an important deadline for Expedited Reinstatement. In order to receive EXR benefits under any of the SSA disability programs, the request must be made within 60 months of when the prior benefit was terminated, unless good cause can be substantiated. Thus, if a person's disability causes the reduction or cessation of work more than five years after the record is terminated, EXR will not be available and a new application for benefits must be filed.

When EXR Applies – Understanding Termination

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

Termination, under the SSA rules, does not just mean that cash payments have stopped. It means that the computer record that maintains payments has been terminated. Once a person has been terminated, it takes a formal re-entitlement or re-instatement decision to reopen the computer record in order for payments to begin again. It is important to understand that termination is more than just stopping payments. Termination is more than cessation, suspension, non-payment, or any other term SSA 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)***

In order for reinstatement of benefits to be expedited, the earlier record must have been terminated. That means individuals receiving Social Security disability benefits must have worked through all of the work incentives. That means they have used their Trial Work Period, Extended Period of Eligibility, and other work incentives, and have a terminated Social Security record.

Individuals who are still in their Extended Period of Eligibility don't need to request EXR as they are NOT fully terminated from benefits. Just showing there has been a drop in earnings may reinstate their benefits. People reinstated under the Extended Period of Eligibility (EPE) don't have to prove their disability again, unless it is time for a regularly scheduled CDR.

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

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

In order to be eligible for EXR, SSI recipients must have exhausted all of the SSI work incentives, including 1619(b). These individuals must have earned wages in excess of the applicable threshold amount long enough that the SSI record was terminated. In order for this to occur, an individual must not have been 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 are not fully terminated from benefits. These persons only need to show the SSA that their income has dropped in order to become reinstated.

Requesting EXR vs. Reapplying for Benefits

SSA's Program Operations Manual System (POMS) specifically states that EXR and reapplication are mutually exclusive. Community Work Incentive Coordinators (CWIC)s may need to help some customers understand how EXR and reapplication differ. CWICs may also need to help beneficiaries explain some of their unique needs to the SSA when seeking information about which to request. This is an important decision which requires that the following factors be considered and weighed:

- ***Waiting Periods***

One of the potential disadvantages of pursuing a new application over requesting EXR is that some disability benefits require that a waiting period be served before cash payments may begin. Social Security Disability Insurance (SSDI) and Disabled Widow(er)s Beneficiaries serve a waiting period before benefits are payable. This waiting period is five full calendar months after the date the disability began. Childhood Disability beneficiaries (CDBs) never serve the 5-month waiting period.

Once SSDI benefits are terminated due to work, there is a five-year (60-month) period after the termination during which former beneficiaries can apply and be re-entitled without having to serve another 5-month waiting period. Persons who apply and are re-entitled in this manner also receive a new set of work incentives as soon as they are awarded benefits (i.e.: Trial Work Period and Extended Period of Eligibility). Disabled Widow(er)s also may be re-entitled without a waiting period within 5 years of termination. They have a limitation, however, on being re-entitled if more than seven years have passed since termination. In that case, however, the widow(er) over age 60 can apply for Widow(er)s Insurance Benefits (WIB), not based on disability. There is no waiting period at all for WIB.

Individuals may re-apply for SSI at any time after termination has occurred. Keep in mind that termination due to earned income does not occur until after a person has been ineligible for 1619(b) extended Medicaid for over 12 months. If termination has occurred because of unearned income or resources, beneficiaries may move back into cash payment status without filing a new

application if the beneficiary is eligible again within 12 months after benefits were suspended. If termination occurred because of earned income, it is 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 SSI is awarded. Only SSA 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, you need 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 SSA. 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 these disabilities must be expected to last more than 12 months, or end in the applicant's death before then. In order to establish that a disability exists, SSA looks closely at the applicant's medical records. The burden of proof lies with the person filing the claim, not with the SSA. 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 Disability Determination Service 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 is not 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 used for initial applications. Once people are entitled to benefits, the DDS doesn't look for medical evidence that proves disabilities exist, 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 is disabled, only that the disability still exists at the same level of severity.

Under Expedited Reinstatement, after establishing 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 they use with Continuing Disability Reviews; DDS assumes that the disability is there. What they need 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 roles 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 does not. 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 medical improvement has occurred and denies reinstatement, the SSA normally does not 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 provisional payments are made, SSDI/CDB/DWB beneficiaries will receive Medicare, while SSI recipients will receive Medicaid health insurance coverage. If the reinstatement is awarded, the health coverage will continue with the payments. If the EXR is denied, the health insurance will stop with the cash payment, but there will be no overpayment assessed. 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 someone applies for Expedited Reinstatement, and is found to have a medical improvement, s/he no longer is disabled under Social Security law. That means her/his 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 Provisional Payments under EXR are Determined

For title II beneficiaries, the provisional payment amount is based 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), the benefits may be recomputed to a higher amount if earnings at 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 that the Social Security Administration does to determine the amount of payments. It is the amount in benefits that the worker would receive at full retirement age. All benefits paid on this worker's record are calculated from this PIA. For example, children receive part of the worker's PIA. The child of a living worker receives up to 50% of the worker's PIA, but a surviving child receives up to 75% of the worker's PIA.

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

****Cost of Living Adjustments (COLAs)** - In recent years, the SSA has increased Social Security payments and SSI Federal Benefit Rates 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 the SSA calculates the cost-of-living raises, they add the COLA to the Primary Insurance Amount, and then figure out what beneficiaries receive based on that PIA.

Supplemental Security Income (SSI) is a benefit based on financial need. The provisional benefit amounts are based on the individual's countable income and the current Federal Benefit Rate (FBR). State supplemental payments are not made 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. SSA 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 s/he received before the first period of disability was terminated. Here is an example of how this works:

Yanna

Yanna received \$600.00 a month in SSDI before she returned to work. Her benefit record was terminated 4 years ago. She has had a relapse of clinical depression and is deciding whether to reapply or request Expedited Reinstatement. Yanna checked with the SSA, 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 her prior benefits were terminated.

For Yanna, there are several advantages to reinstatement instead of reapplication. First, the COLAs would be added 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 the reinstatement standard (CDR standard) to be used when deciding if she is disabled. She also wants to receive provisional payments. Yanna requests EXR.

Family Maximum

When the Social Security Administration calculates benefits, they must take into account the Family Maximum. This is a cap that limits how much the various family of a worker may receive in total. The worker is paid his benefits first, and then whatever is left of the Family Maximum is divided 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 the reinstatement has been approved 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, the Social Security Administration is able to pay retroactive Social Security Disability benefits as much as 12-months prior to the date of application or request. If an EXR request is denied, it can then serve as a protective writing for a new initial claim. However, if an initial claim is denied it does not protect EXR filing. This could be an important consideration if more than 12 months retroactivity is possible under both filing options.

SSI does not have the same type of retroactivity built into it as Social Security Disability benefits. In fact, the farthest an SSI request for Expedited Reinstatement can go back is the date the SSA first knew of the request.

Whether making a request for EXR or a new application for SSI, there is a short waiting period. The month in which individuals let the SSA know they want to apply is the eligibility month. Payments are not 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 get another Trial Work Period (TWP) and Extended Period of Eligibility (EPE) - but not immediately. The individual must not engage in substantial gainful work activity (SGA) for 24 months before being entitled to another Trial Work Period. These 24-months don't have to be consecutive. If someone who requests EXR returns to substantial work, the 24-month clock stops ticking until he again stops performing SGA. Once the 24 months has passed, the person receives a new Trial Work Period, and Extended Period of Eligibility, and all of the other work incentives conferred 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 payments are suspended 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, s/he has a new Extended Period of Medicare coverage.

Supplemental Security Income Recipients (SSI)

If the individual receives SSI, and not Social Security disability benefits, then use of SSI work incentives is immediately possible after reinstatement. Once someone gets SSI through Expedited Reinstatement he must receive benefits for 24-months before s/he may again request EXR. If the entitlement ends before the 24-months have passed, the person 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 new regulations, SSA 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 EXR request is made. Other provisions in the final regulations include:

- ◆ The opportunity to file a second request for reinstatement if the previous request was denied. SSA will not pay provisional benefits for the second request if provisional benefits were previously paid 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.
- ◆ Childhood Disability and Disabled Widow (er) Beneficiaries will be paid provisional payments without consideration of the Family maximum, the cap on total family benefits. If later reinstated, however, the difference between the higher provisional payments and the adjusted reinstated payments will be considered 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.
- ◆ 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 the request is received by SSA. If benefits are reinstated, then SSA will determine if any retroactive benefits are due. Retroactivity is possible for up to 12 months before the request was made.

- ◆ EXR requests are effective for SSI the month after the month the request is made. There is no retroactivity for SSI entitlement.
- ◆ In addition, the SSA will not pay provisional benefits for any month where a suspension or terminating event occurs under the usual rules, such as if the beneficiary is incarcerated. Provisional benefits may be recovered as overpayments if the beneficiary knew or should have known that the beneficiary was not eligible for those payments.
 - The performance of SGA during the provisional benefit period terminates provisional benefits. The last month of provisional benefits payable is the first month of SGA. Provisional benefits do not resume after termination due to SGA.
- ◆ Under the SSDI program, provisional payments will only be made to the SSDI beneficiary, and not to family members. Once the worker is reinstated under EXR, the spouse and/or eligible children need only make a request to have their benefits reinstated.
- ◆ Denials made on an EXR request contain appeal rights. However, determinations made regarding provisional benefits, and only provisional benefits, carry no appeal rights. The EXR request does provide protective writing for a new claim which can be pursued while the EXR appeals process is being followed.

Conclusion

Whether an individual should reapply for benefits or request Expedited Reinstatement is a complex decision. Factors such as benefit amount, access to work incentives, provisional payments, disability determination, waiting periods, and access to medical insurance are all essential factors. The Social Security Administration is best equipped to help someone make a decision, since they, and only they, make the decision of what will be paid, and whether benefits are payable at all. CWICs should help the individual understand the complexity of the situation, but should not delay the request for EXR or the new application. Delay might cause a loss of benefits.

Frequently Asked Questions

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 the SSA to reopen and deny the application. EXR would permit provisional payment for the few months that the individual is below SGA. The payments would be suspended 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, the premiums will be deducted from provisional benefits.

Will existing overpayments affect provisional benefits?

The SSA will not withhold overpayments from provisional benefits without the written consent of the individual. Once the benefits are reinstated, however, overpayment recovery follows normal rules.

If people had family members receiving benefits before they were terminated, will the family members be due 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 the reinstatement decision is made. They will not be eligible for provisional payments.

What happens if someone was receiving CDB benefits previously, and got married before or after the benefits were terminated?

When CDB benefits are terminated due to marriage, individuals will not be able to apply again on that parent's record, unless the marriage was void or annulled. EXR would not be possible because termination would have occurred 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, they must apply or request EXR. Which they do depends on the respective payment amounts. Individuals who are entitled to SSI are required to procure whatever benefit will pay the earliest and the highest amount.

Are there differences in EXR if the individual is blind?

EXR is applied to blind individuals the same way it applies to other beneficiaries, with some exceptions. For blind people who are over age 55, there is a special provision that may let them come in and out of payment status, depending on earnings, without having to reapply. For those individuals, EXR is not 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 is used to consider work as substantial is significantly higher. For SSI recipients, additional deductions can be made when considering gross income to determine what income is countable. These work incentives apply immediately if the person is reinstated. Under

reapplication, the limit for substantial work only applies after the Trial Work Period is complete.

If someone reapplied and was denied, may they request EXR?

As stated earlier, the medical disability standard for reapplication is more difficult to meet than the medical standard for EXR. A person could choose to reapply, and then be denied. If that happens, they may request Expedited Reinstatement. The EXR request date will not be retroactive to the application date.

IF EXR is denied, may former beneficiaries reapply?

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

Conducting Independent Research

The electronic file of the final EXR regulations is available in the Federal Register at <http://www.gpoaccess.gov/fr/index.html>

- DI 13050.000 -- Expedited Reinstatements – Subchapter Table of Contents
- DI 13050.001 -- Expedited Reinstatement - Overview
- DI 13050.005 -- General Workflow
- DI 13050.010 -- Time Limit for Requesting Expedited Reinstatement
- DI 13050.015 -- Protective Filing
- DI 13050.020 -- Filing Considerations - Expedited Reinstatement Versus Initial Claim
- DI 13050.025 -- Provisional Benefits - Title II
- DI 13050.030 -- Provisional Payments - Title XVI
- DI 13050.035 -- Reinstatement Determination - Title II
- DI 13050.040 -- Reinstatement Determinations - Title XVI
- DI 13050.045 -- Expedited Reinstatement Interview - Title II
- DI 13050.050 -- Expedited Reinstatement Interview - Title XVI
- DI 13050.055 -- Medical Determination for Expedited Reinstatement
- DI 13050.060 -- Expedited Reinstatement Awards - Title II and XVI
- DI 13050.065 -- Expedited Reinstatement Denials - Title II and XVI
- DI 13050.070 -- Expedited Reinstatement and Medicare Termination
- DI 13050.075 -- Representative Payee
- DI 13050.080 -- Overpayments
- DI 13050.085 -- Appeals Process Under Expedited Reinstatement
- DI 13050.090 -- Expedited Reinstatement and Initial Claim Filed for the Same Benefit
- DI 13050.095 -- Processing Center Expedited Reinstatement Procedures
- DI 13050.100 -- Critical Cases

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Quick Reference Chart Comparing EXR and Re-Application

<i>Issue</i>	<i>Benefit</i>	<i>Expedited Re-instatement</i>	<i>Reapplication</i>
Provisional Payments	All Benefits	Up to six-months while disability decision is made.	Not payable under reapplication.
TWP	SSDI, CDB, DWB	Eligible for TWP after 24-months of non-SGA.	Eligible for TWP as soon as entitlement begins.
Payment amount	SSDI	Adds COLAs and recomputations with recent earnings.	Adds COLAs only if termination was less than 12-months, but will recompute with recent earnings. Calculation is different, because of additional years added into the calculation and different computation year.
	DWB, CDB	Based on worker's record, so recomputation is not applicable. COLAs will apply for all years. Family Maximum will not affect provisional payments.	Based on someone else's work, so recomputation not applicable. All COLAs will be applied. Family Maximum applies with first month of payments.
	SSI	Amount based on current income, living arrangement, and assets. Payments may begin with month after the request.	Payments based on current income, living arrangements, and assets. Payments may begin the month after the month of application.
Medicare	SSDI, CDB, DWB	Coverage begins with provisional payments.	If within five years of prior termination, Medicare begins with the first month of entitlement after medical decision of approval is made.
Medicaid	SSI	Begins with first month of provisional payments.	Begins with the month after the month of application.
Other work incentives	CDB, SSDI, DWB	Begins after consumer completes 24-months of non-SGA after reinstatement under EXR.	Begins immediately upon entitlement.
	SSI	Begins first month of provisional payments.	Begins first month of entitlement.

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