
CaPROMISE

Social Security Section 301

Guide

2018

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I. Purpose

The purpose of this guide is to educate staff, youth, and their families about how and when the Supplemental Security Income (SSI) program will conduct medical reviews for CaPROMISE participants, and the application of the Section 301 Rule to continue benefits that may otherwise cease.

The information in this guide has been obtained from:

- CaPROMISE and Your Social Security Age 18 Redetermination of Eligibility Document
- New York State PROMISE 2017 Social Security Section 301 Rule, Cornell University, Ithaca, New York, James R. Sheldon
- Parent Network of Western New York
- SSA PROMISE Guide to Section 301 (June 2018)

II. Continuing Disability Review and Age-18 Redetermination

A person qualifies for either SSI or Social Security Disability Insurance (SSDI) payments based on a finding of disability. With SSI, the person must also have limited income and resources to qualify. These programs will review the individual's case from time to time to see if their medical disability and income level still qualifies them for benefits. Social Security can review the individual in two different ways:

1. Medical Continuing Disability Review (CDR)

During this review, Social Security looks at medical information and school records, for example, to see if the individual still has a qualifying disability. If Social Security decides the individual is still disabled, their benefits will continue. If they decide the individual has improved and no longer has a qualifying disability, they will send a letter to let the individual know this and to let them know their benefits will end. The individual can appeal this decision and ask that their SSI or SSDI payments continue during the appeal.

2. SSI Age-18 Redetermination

When a child reaches age 18, the SSI program will do a medical review to see if they meet the disability rules for adults. If the adult disability criteria is met, SSI payments will continue. If SSA decides the individual does not meet the adult disability criteria, they will

send the individual a letter to let them know this and to let them know their SSI benefits will end. Like the medical CDR decision, the individual can appeal and ask that their SSI continues during the appeal.

Note, the Age-18 Redetermination is not just a medical decision. The Social Security Administration (SSA) also reviews non-medical eligibility criteria during an Age-18 Redetermination (income, assets, etc.). If benefits are ceased for one of those reasons, Section 301 does not apply.

III. The Section 301 Rule

Section 301 allows an individual's SSI or SSDI benefits to continue if they are found to be no longer disabled or not disabled under adult SSI criteria. Section 301 applies when the individual is involved in certain vocational rehabilitation, educational, or training programs, and/or other support services that are likely to lead to employment and self-sufficiency. An individual's participation in the program must have begun before the month their disability or blindness ended.

The PROMISE project counts as an approved program for Section 301 (POMS DI 14505.010, Section B.6.a).

IV. Why File for Section 301?

Section 301 protections are important if an appeal cannot or will not be pursued to continue benefits. Here are some examples of when that might be the case:

- Missing the appeal deadline: An individual usually has 60 days to appeal after receiving an SSI termination notice. If the appeal is not requested within 60 days, there is no right to appeal later except when there is a very good excuse for missing the deadline.
- Missing the deadline to request continued benefits: An individual usually has 10 days after receiving the notice of termination to request an appeal with continued benefits. Even if the appeal is requested timely, they will likely miss out on continued benefits if it is not requested within 10 days.
- An individual believes they do not meet disability criteria and does not appeal: Even if the medical condition does not go away completely, it

may have improved enough to no longer meet the SSI or SSDI disability criteria. In a case like this, the individual may decide not to appeal.

- An individual loses appeal at the hearing level: The right to continued benefits ends if a hearing decision finds that the individual is no longer disabled or not disabled under the adult SSI criteria.

For all of these examples, Section 301 could be available for a period of several months or even several years to continue benefits.

V. Section 301: Key Requirements

Section 301 was put in place to protect benefits of persons who participate in an approved “vocational rehabilitation” (VR) or like-services program. If participation in that program starts before the disability ended, both cash payments (SSI or SSDI) and health insurance (Medicaid or Medicare) can continue in many cases. For example, if an individual started a college program, sponsored by DOR VR before the finding of “No longer being disabled,” Section 301 could allow benefits to continue throughout the college years. In that case, SSA would have to decide if continuing the college program would likely result in a job that will keep the individual off SSI or SSDI in the future. Section 301 protections can also keep benefits coming for the young person who stays in school, continues to participate in a PROMISE treatment group, or continues to participate in a different eligible VR program.

If an individual gets a notice that their benefits will be terminated following a medical CDR or an SSI Age-18 Redetermination, there are two key requirements they must meet to keep getting benefits under Section 301:

1. They must be participating in a VR program or other program acceptable to Social Security.
2. The program must be expected to “increase the likelihood” of eliminating the future need for SSI and/or SSDI benefits.

If the individual qualifies for Section, their SSI or SSDI cash benefits and Medicaid/Medicare can continue as long as they continue to participate in the VR program or other special program, and SSA determines the

participation will increase the likelihood the individual will not return to the disability program.

VI. What Qualifies as an Approved VR Program?

1. Services through an Individual Plan of Employment (IPE), provided by _____.
2. Services from an Employment Network (EN) through the Ticket to Work Program.
3. Services from a private VR agency – This could include agencies who serve a person through _____ funding or who serve the person through _____ funding, or who serve the person as an EN under the Ticket to Work Program.
4. Special education services pursuant to an Individualized Education Program (IEP), even if there is no current vocational component (for those 18 through 21 years old).
5. Services through an approved SSI Plan to Achieve Self-Support (PASS).
6. Services through any other program that is designed to assist the participant to achieve a work goal.
7. Treatment services through the PROMISE demonstration program.

VII. Special Section 301 Rules

Moving from High School to an Adult VR or College Program

A student between ages 18 and 21 has Section 301 protection for participating in a special education program with an IEP.

What happens if that student leaves high school and does not begin an adult VR program for a month or two?

If the adult program meets the Section 301 criteria and the person begins it within three full calendar months after the end of the month they left high school, SSA will consider the high school program and adult program to be in “one continuous period of participation” and allow Section 301 protection.

Example: Tom, age 21, receives SSI benefits because of Section 301 while in a special education program with an IEP. He leaves high school the last week of June. Tom enrolls through DOR into an adult program on

September 21st. Since Tom left his high school program in June, he has three full calendar months – July, August, and September – to start with another approved program to continue his Section 301 protection. Since he started the adult program before the end of September, SSA will consider the high school special education program and the adult training program as “one continuous period of participation” and he will be protected by Section 301. His SSI benefits will continue until the training program ends.

Three-Month Grace Period for Temporary Interruption in Program Participation

In the above example, let’s assume Tom stops attending the adult training program on December 20th. On March 1 Tom returns to the program and continues his training. Since he resumed his VR program before the end of March (the third month), SSA will consider his interruption temporary and Section 301 will allow his SSI benefits to continue until he completes the program.

VIII. Four Examples of Continued Benefits Through Section 301

Example 1: Christina, an SSI beneficiary, is participating in PROMISE

At age 16 she was receiving SSI and enrolled in a PROMISE treatment group on March 15, 2018. SSA conducted a medical CDR and Christina was found to no longer be disabled as of April 20, 2018. After the review, Christina’s grandmother got an SSI notice saying she was no longer disabled and that her SSI would be terminated. No appeal was filed within the 60-day appeal deadline. Unless Christina or her grandmother can provide a very good excuse for missing the deadline, it will be too late to appeal. But, since she was enrolled in PROMISE prior to the termination date, it is possible she will qualify for Section 301 benefit continuation. When PROMISE services end, Christina’s right to continued SSI payments under Section 301 will probably end as well but could continue if she is now getting services through another program as we explain in Example 2.

Example 2: Christina graduates from high school and now gets help from DOR VR to attend a six-month vocational program.

Christina stays in school and in June gets her high school diploma at age 19. Her PROMISE services end in July. Christina continued receiving SSI through Section 301 after she was found to be no longer disabled because she stayed involved with PROMISE. These special SSI benefits were

scheduled to end when her PROMISE services ended, but SSI could possibly continue because of her continued participation with DOR VR.

After high school, with the help of DOR VR, Christina enrolled in a six-month program to learn more about auto body and collision work with a goal of working in that field. DOR VR agreed to pay her full tuition, transportation costs to and from the program, and for a tutor to help her understand some of the course materials. DOR VR also contracted with the ABC Employment Services for additional services. After completion of the auto collision program, ABC helped Christina prepare a resume, assisted her with job search, and helped her prepare for job interviews.

Within three months of completing the collision program, Christina found a full-time job with ABC's help. During the first three months on the job, ABC Employment Services staff met every two weeks with Christina and her work supervisor to see how the job was going and to see if she needed any extra assistance on the job. Since Christina did well at the job, after the three months both ABC Employment Services and DOR VR closed their cases.

Christina was able to continue receiving SSI benefits through Section 301 for the training program, her job search, and the first three months on the job – a total period of about 12 months. This is because the vocational program, which was sponsored by DOR VR, started within three calendar months of the end of PROMISE services, and was expected to lead to work and the end of her need for SSI.

Example 3: Eric continues in a special education program after the Age-18 Redetermination

Eric is age 18, gets SSI because of a disability, and lives with his mother. As a high school sophomore, he attends regular classes and gets both resource room help and occupational therapy through the special education system. Following an Age-18 Redetermination, the SSI program sent him a notice saying he was not disabled under the SSI adult disability criteria and explaining that his SSI would be terminated. Eric's mother misplaced the SSI notice and did not appeal the decision until 40 days after receiving the notice. This appeal was filed within the 60-day time limit, but it was too late to ask for continued SSI payments during the appeal process.

Eric and his mother met with his PROMISE benefits advisor who explained that Section 301 would allow his SSI benefits to continue so long as he continued getting special education benefits through an IEP. The benefits

advisor also explained that he has a right to keep receiving special education services until the end of the school year when he turns 21 unless he gets a regular high school diploma before that. Eric decides he will stay in school and work with the school and PROMISE staff to try to get a paid job while he is still a student, because of the possibility that SSI may continue until he exits the special education system.

IX. Actions to Continue Section 301 Protection Beyond CaPROMISE

The CaPROMISE project ends September 30, 2019. If a CaPROMISE participant is currently receiving continued benefits through Section 301 and plans to continue participating in an appropriate VR program after the project ends, the following steps should be followed:

1. The DOR completes Part II, Section B of form [SSA-4290-F5](#). Include the new program's contact information, end date, and accompanying evidence of the new program (IPE, PASS, Ticket to Work).
2. Contact the local SSA [field office](#) or Area Work Incentive Coordinator ([AWIC](#)) for questions, if needed.
3. Submit the SSA-4290-F5.

Section 301 only applies to individuals who were entitled to benefits and who later are determined to have medically improved. Individuals who receive continued SSI payments under Section 301 must also continue to meet all of the non-disability related standards for this program including income and resource limits.

Section 301 provides temporary benefits while the individual is participating in a program designed to lead to a permanent removal from SSI. At the end of program participation, Section 301 protection stops, and benefits are terminated.

X. Resources

For questions regarding Section 301, contact your local [AWIC](#). To determine the AWIC in your region, visit <https://www.ssa.gov/sf/awic.htm>.