



NATIONAL ORGANIZATION OF  
SOCIAL SECURITY CLAIMANTS'  
REPRESENTATIVES  
ESTABLISHED 1979

November 22, 2023

Faye I. Lipsky  
Office of Legislation and Congressional Affairs  
Social Security Administration  
6401 Security Blvd.  
Baltimore, MD 21235

*Submitted via Regulations.gov*

RE: Intermediate Improvement to the Disability Adjudication Process:  
Including How We Consider Past Work  
**Docket No. SSA-2023-0024**

Dear Director Lipsky:

These comments are submitted on behalf of the National Organization of Social Security Claimants' Representatives (NOSSCR), a specialized bar association for attorneys and advocates who represent Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) claimants throughout the adjudication process and in federal court.

We applaud the agency's proposal to revise the period considered when determining whether an individual's past work is relevant from 15 years to 5 years, and we encourage the agency to swiftly enact this revised policy. This change will reduce the administrative burden on applicants and the agency, allow for more accurate and meaningful data collection regarding past relevant work, reduce delays and allow for improved customer service and adjudicative efficiency, and more accurately reflect the realities of the rapidly changing workforce and the relevance of the skills acquired therein.

**1. Revising the relevant work period from 15 years to 5 years will positively impact the agency and disability claimants**

As the agency correctly indicates, the data collection required for 15 years of work history is burdensome to claimants and the agency. Requiring the level of detail that SSA seeks for every job held within the past 15 years necessarily produces incomplete and inaccurate information, as claimants, many of whom have held several jobs within 15 years, struggle to recall the finer details of each job. The massive amount of paperwork required for a disability application often causes claimants to become overwhelmed, and while they try to provide the needed information, their desperation to complete a form can lead to inaccurate information based on mistaken recollections.

Focusing on only the past 5 years as relevant work history allows claimants to prioritize providing accurate information about the jobs for which they most likely retain transferrable skills. This also alleviates the burden on agency staff who now routinely engage in duplicative outreach in order to gather (often inaccurate) information about remote jobs. By reducing the employment lookback period, disability

applications can be processed more quickly and accurately, which will enable the agency to successfully begin reducing the existing backlog.

**2. Enacting this proposed change will benefit those who already suffer from adverse vocational profiles, while yielding unchanged results for those without otherwise adverse vocational profiles**

As SSA's data reveals, individuals under the age of 50 have significantly more employers within the past 15 years than those over the age of 50. But unless these younger individuals started working before the age of 18 and have 35 years of only arduous unskilled physical labor, they must still pass SSA's Step 5 test regarding whether *any* other work is available in the national economy. Typically, the transferability of skills analysis need not be applied to those under 50 years of age due to the extensive availability of unskilled work in our nationwide labor market.<sup>1</sup> Thus, if individuals under the age of 50 are capable of performing unskilled work that exists in substantial numbers, their disability application will be denied at Step 5 *regardless* of the analysis of their past work. The extensive time that the agency and the claimant spent fleshing out data regarding multiple remote work experiences is unnecessary. By reducing the lookback period to 5 years, the agency and the claimant will save valuable time and resources that can be better applied elsewhere.

For those over the age of 50 with adverse vocational profiles, shortening the lookback period will yield more realistic and fairer results that more accurately reflect these individuals' capacity to work in a modern job market.

**3. We encourage SSA to provide the claimant's wage report to the claimant (and representative) when requesting completion of form SSA-3369-BK**

SSA already has access to the claimant's work history via wage reports. This helpful information should be supplied to the claimant/representative in conjunction with the request for additional claimant answers on form SSA-3369-BK<sup>2</sup>. SSA should also prefill the form with the jobs about which they require additional information. In so doing, the agency will successfully simplify the form and will necessarily have greater success gathering the needed information, thereby allowing for more accurate decisions.

**4. We applaud SSA's proposed medical-vocational profile revision, and encourage additional thoughtful changes**

We applaud SSA's proposal to also reduce the past work lookback period for the "no work" profile. Given the other required factors, members in this group are already facing extremely adverse vocational profiles. Reducing the past relevant work from 15 to 5 years will yield decisions that more accurately reflect group members' ability to successfully function in the workforce.

We encourage SSA to go further by revising all three medical-vocational profiles to include individuals with only high school educations. While nationwide high school graduation rates have increased over the

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<sup>1</sup> <https://secure.ssa.gov/poms.nsf/lnx/0425005005>

<sup>2</sup> This can be accomplished electronically by allowing the appointed representative access to the claimant's wage report at the initial and reconsideration levels.

past several decades,<sup>3</sup> the value of a high school education has significantly decreased.<sup>4</sup> Thus, those with only a high school diploma now face significantly adverse vocational factors, just as those with limited education did decades ago. As these medical-vocational profiles are intended to protect those who have extremely adverse employability, a revision to reflect the growing trends in the effectiveness of a high school education should be made.

##### **5. We encourage SSA to rely on modern vocational data**

In determining whether claimants can return to their past work or perform other work in the national economy, SSA relies on the *Dictionary of Occupational Titles* (DOT), which was last updated in 1991.<sup>5</sup> Changes to occupations in the last thirty-two years cannot be found in the DOT. In 1991, fewer than 50% of Americans used a computer at home or work.<sup>6</sup> NOSSCR is told that there are no remaining copies of the DOT in the Department of Labor's offices, and they no longer support using it.<sup>7</sup>

A replacement for the DOT has already been paid for and produced for SSA's use by the Department of Labor—the Occupational Information System (OIS).<sup>8</sup> NOSSCR's members use it to question vocational witnesses. However, despite having spent more than \$239 million<sup>9</sup> on the project thus far, SSA has still not told adjudicators to use it.

Instead, SSA relies on occupational data from generations ago to get decisions wrong. Many of the DOT occupations are obsolete. For example, a tube operator (DOT 239.687-014) “[r]eceives and routes messages through pneumatic-tube system.” This occupation was replaced by email, and yet SSA routinely cites it in denying claims. Often SSA cites “addresser” (DOT 209.587-010). An addresser “[a]ddresses by hand or typewriter, envelopes, cards, advertising literature, packages and similar items for mailing.” Courts agree that this isn't done in modern computerized times. In *Hardine v. Comm'r of Soc. Sec.*, the district court found: “Why the vocational experts continue to rely on this particular [obsolete] job rather than so many others provided in the enormous DOT is a puzzle, but the Court will not accept it any more than it would accept the job of lamplighter.”<sup>10</sup>

We encourage SSA to switch to the OIS, allowing for decisions based on modern data and resulting in fewer appeals, thereby saving agency time and resources.

Thank you for your consideration of these comments.

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<sup>3</sup> <https://nces.ed.gov/programs/coe/indicator/coi/high-school-graduation-rates>

<sup>4</sup> <https://www.cbsnews.com/news/the-value-of-a-high-school-degree-has-collapsed-since-1980/>

<sup>5</sup> <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDOT>

<sup>6</sup> <https://www.pewresearch.org/internet/2014/02/27/part-1-how-the-internet-has-woven-itself-into-american-life/>

<sup>7</sup> <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDOT>

<sup>8</sup> <https://www.bls.gov/ors/>

<sup>9</sup> <https://www.ssa.gov/disabilityresearch/documents/Fact%20Sheet%20-%20Occupational%20Information%20System%20Project.pdf>

<sup>10</sup> No. 4:19-cv-147-DAS, 2021 WL 1098483, at \*1 (N.D. Miss. Feb. 26, 2021).

Sincerely,

A handwritten signature in black ink, appearing to read 'David Camp', with a stylized flourish at the end.

David Camp  
Interim Chief Executive Officer