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[www.cfpa.net](http://www.cfpa.net)

**Via [www.regulations.gov](http://www.regulations.gov)**

Andrew Saul  
Commissioner  
Social Security Administration

**Re: Notice of Proposed Rulemaking on Rules Regarding the Frequency and Notice of Continuing Disability Reviews, 84 Fed. Reg. 36588 (November 18, 2019), Docket No. SSA-2018-0026**

Dear Commissioner Saul:

On behalf of California Food Policy Advocates (CFPA), we would like to thank you for the opportunity to provide comments on this proposed rule. CFPA is a statewide policy and advocacy organization dedicated to improving the health and well-being of low-income Californians by increasing their access to nutritious, affordable food. We understand that Supplemental Security Income (SSI) is a critical source of support for many low-income households. We believe that all Americans deserve access to resources that help them meet their most basic needs.

CFPA understands that Continuing Disability Reviews (CDR) are an integral part of carrying out Congress' direction that "[i]n any case where an individual is or has been determined to be under a disability the case shall be reviewed by the applicable State agency or the Commissioner of Social Security (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years."<sup>1</sup>

Congress also understood that some impairments are likely to be permanent and explicitly gave the Commissioner of Social Security authority to determine how often to complete the reviews on individuals receiving Social Security disability benefits with such impairments.

The proposed rule fails to state the CDR categories that would be used for many of the most common impairments, making it impossible to determine what changes would occur, what the rationale is for them, and what the effect would be on disability beneficiaries and others. The failure to provide the public with all but the most rudimentary information about its rationale or process creates an impermissible procedural error under the APA, making it impossible for the

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<sup>1</sup> 42 USC 421(i)(1)



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public to make meaningful comments regarding the time frames proposed in the NPRM or the classification of impairments into CDR categories.

CFPA is particularly concerned about this proposed rule change, because we and our fellow SSI advocates worked for many years to change California policy in order to allow SSI recipients to become eligible for Supplemental Nutrition Assistance Program (SNAP) benefits (known as CalFresh in California).

### **Background: California's "Cashout" Policy**

Since 1974, California's Supplemental Security Income (SSI) "cashout" policy had made SSI recipients (people over age 65 and/or living with a disability) ineligible for CalFresh, our state's and federal government's largest and most impactful food assistance program for low-income residents. Due to the hard work of advocates and the forward thinking of the California legislators, California enacted policy through the 2018-19 State Budget ending the "cashout" policy, which formally came to an end on June 1, 2019<sup>2</sup>. As a result of the new policy, more than 500,000 SSI recipients became eligible for CalFresh food assistance<sup>3</sup>.

This expansion of CalFresh eligibility was particularly important for older adults aged 60 or older, who represent more than half of the over 1.2 million low-income Californians who receive SSI to help meet their basic needs<sup>4</sup>.

Access to federal SNAP nutrition assistance increased food security for California's low-income SSI seniors and people with disabilities, leading to fewer people being forced to choose between basics like food and medicine, and giving people more flexibility to direct money toward other needs such as finding and being able to afford housing.

California has one of the highest rates of senior poverty in the nation<sup>5</sup>. Older adults are struggling to make ends meet and stay in their homes, especially in the parts of California with the highest housing costs. Homelessness among California seniors is on the rise.

SSI, administered by the Social Security Administration, is an economic lifeline for low-income older adults as it provides a very basic income to pay for shelter, food, and other necessities.

Seniors receiving SSI, as well as service providers who are helping them, often have a hard time understanding SSI eligibility rules that lead to reductions and terminations. Those currently receiving SSI frequently experience problems when trying to appeal decisions that reduce or terminate their benefits, because they cannot navigate Social Security's burdensome and complex appeal process.

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<sup>2</sup> [sccgov.org/sites/ssa/debs/CalFresh1/chapters/fschap37.pdf](http://sccgov.org/sites/ssa/debs/CalFresh1/chapters/fschap37.pdf)

<sup>3</sup> [cfpa.net/CalFresh/CFPAPublications/CFPA-FactSheet-SSICalFreshExpansion-2019.pdf](http://cfpa.net/CalFresh/CFPAPublications/CFPA-FactSheet-SSICalFreshExpansion-2019.pdf)

<sup>4</sup> [justiceinaging.org/ssi-in-california/](http://justiceinaging.org/ssi-in-california/)

<sup>5</sup> [www.kff.org/report-section/how-many-seniors-live-in-poverty-issue-brief/](http://www.kff.org/report-section/how-many-seniors-live-in-poverty-issue-brief/)



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If enacted, this rule could jeopardize the food benefits so desperately needed for older adults in California, in particular a specific segment of SSI recipients who became eligible for food benefits under California's Supplemental Nutrition Benefits (SNB) or Temporary Nutrition Program (TNP).

California created two state-funded nutrition benefit programs intended to "hold harmless" existing CalFresh households negatively affected by the policy change. The two state-funded programs, known as the Supplemental Nutrition Benefit (SNB) and Transitional Nutrition Benefit (TNB) Programs, will provide CalFresh households with nutrition benefits to mitigate the reduction of CalFresh benefits or CalFresh ineligibility, respectively.

Eligibility for these two programs requires that participants stay eligible for SSI, with no break in eligibility. If SSI recipients are cut off of SSI, they will lose SNB/TNP eligibility and will never regain those benefits, even if they become eligible for SSI in the future. California sought to do "no harm", this rule change would in fact cause irrevocable damage. Many of these households are among the poorest in our communities. Further, though not intentional, Social Security Administration eligibility workers sometimes make mistakes. Social Security does not always follow the law for disability reviews, and people get cut off improperly. The new rules would make these problems worse by increasing the number of client/worker interactions that could result in erroneous termination.

We stand strongly opposed to the proposed rule. It will negatively impact SSI recipients as a whole, but in particular Californians who desperately need access to the benefits for basic needs and the food benefits they are currently receiving.

Thank you for the opportunity to provide comments. Should you have any questions about these comments, please do not hesitate to contact me via the email address below.

Respectfully,

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