



memo

TO: Division of Disability Determination PEF Members
FROM: Kathy D'Arminio, Marion Fox, Diane Hart
DATE: May 31, 2005
SUBJECT: Congressional Mailing on SSA Final Rule

As you are aware, the *SSA Final Rule on the Administrative Review Process for Adjudicating Initial Disability Claims* was issued in late March. The DDD Labor/Management Committee has reviewed the Rule and is concerned about certain vague provisions regarding qualification standards which may threaten the job security of our members, particularly the DDD medical consultants. We have raised these issues at Statewide Labor/Management, and President Benson has written about our concerns to Commissioner Barnhart.

We believe that the next step in this process is to be proactive and educate the state congressional delegation by asking for them to advocate with Commissioner Barnhart for reasonable qualification standards that will allow our members to continue their employment and function with New York State. Since the specifics of the Rule are not yet set in stone, now is the right time for us to have some influence.

Your participation in this effort is critical. Legislators respond to their own constituents. We have enclosed a letter personalized to your Congressional Representative. Read it, sign it, and write your address below your signature so each Representative can identify you as their constituent. The enclosed envelope is addressed to your Representative.

Together we can make a difference. Thank you for your efforts.

Representative Maurice D. Hinchey
US House of Representatives
Washington, D.C. 20515

May 31, 2006

Dear Representative Hinchey;

As a state employee in New York's Division of Disability Determinations (DDD), I am writing to express my concern over the impact of the new Social Security Administration (SSA) *Final Rule on the Administrative Review Process for Adjudicating Initial Disability Claims*. I believe that some of the provisions may result in a detrimental impact on the provision of Social Security disability payments to eligible claimants.

The Final Rule states that State medical and psychological experts will be required to "meet the Commissioner's qualification standards." These standards are currently under development by the SSA. The resulting standards will determine whether medical and psychological consultants currently employed by New York's Division of Disability Determinations (DDD) will be able to continue to provide the same exceptional level of services they currently offer.

New York has an outstanding reputation for quality service and for being at the forefront of innovation, as demonstrated by the numerous Social Security Administration citations and awards granted in recent years. DDD routinely assists other states in our region in claims processing.

SSA's objective in issuing the new rule is to improve the speed and quality of the disability determination process. A strict standard of Board certification with a narrow implementation time frame will impede this goal. It will create retention problems by imposing burdensome educational requirements on existing consultants who no longer have an active practice but who have extensive experience in disability determinations. It will create recruitment problems because Board certified physicians in select specialties are reimbursed in private practice at a much higher rate than is provided in the disability determinations process. The SSA system will be faced with either a shortage of consultants or a substantial increase in cost in covering contract consultants' higher rates.

Furthermore, Board certification addresses only the medical qualifications of the consultant. It does not address the important regulatory aspects of the function of a medical consultant and the knowledge base necessary to perform this work. It focuses on diagnosis and treatment, not the evaluation of an injury or medical condition in terms of ability to work. It does not account for the knowledge of local health care systems necessary for disability determinations. The emphasis on specialization limits the ability of a single physician, in partnership with a disability examiner, to assess the impact of multiple impairments. It threatens to interfere with the practical and effective system of having a continuous, collaborative relationship between on-site examiners and consultants.

I am asking you to advocate with SSA Commissioner Barnhart for a less restrictive standard than Board certification. At a minimum the standards should provide for the grandfathering in of current State employed medical consultants.

Thank you for your attention to this matter.

Sincerely,