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Submitter Information

Name: Yonatan Ben-Shalom
Address:
1100 1st St. NE
12th Floor
Washington, DC, 20002
Email: yben-shalom@mathematica-mpr.com
Phone: 2022503553

General Comment

Our understanding is that this proposal primarily seeks to address two types of unjustified denials of claims for disability benefits under employer-sponsored plans:

1. Denials on the basis of a disability determination, when evidence otherwise indicates a disability
2. Denials on the basis of program eligibility (for example, due to rescission, when the rescission is erroneous)

We agree that the proposal will likely help to protect employees against inappropriate denials of disability benefits, and therefore increase public confidence in the fairness of the claims and appeals processes. However, evidence suggests that the additional beneficiaries awarded benefits as a result of the proposed changes will almost certainly be required to apply for Social Security Disability Insurance (SSDI) benefits by the insurance providers (Autor et al. 2014, Livermore et

al. 2000). If that is the case, the proposed change is very likely to have the unintended consequence of increasing applications for SSDI and, albeit to a lesser extent, awards of SSDI. These unintended consequences will present additional costs to the federal government that are not included in the analysis of costs and benefits included in this proposal.

To be clear, we do not mean to imply that the proposed rule is bad, as more people will get disability benefits for which they are eligible, and many disability insurance plans do provide early intervention services to help workers return to work (Autor et al. 2014). However, we would advise the government to consider a more balanced approach, including regulations designed to ensure that claimants are provided with evidence-based medical, rehabilitation, and employment services as well as accommodations and assistive technologies they may need to continue to work rather than become reliant on private and public disability benefits. Increased insurer provision of effective stay-at-work/return-to-work services will directly benefit employees and employers, reduce costs to the government, and increase tax revenues (Ben-Shalom 2015).

Sincerely,

Yonatan Ben-Shalom, Ph.D.
Project Director, The SAW/RTW Policy Collaborative
Mathematica Policy Research

David C. Stapleton, Ph.D.
Director, Center for Studying Disability Policy
Mathematica Policy Research

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