

8.1 Introduction

8.1.1 Scope of Chapter

This chapter presents information pertaining to the various disability benefit monitoring programs established by the Railroad Retirement Board (RRB). It presents information on how cases are selected or identified, then developed and evaluated during the review process. Also, it explains how these cases are referred to either the Office of Inspector General (OIG) when there is possible fraud involved or handled for a continuance/termination decision as outlined in the disability manual chapter 10.

The types and sections showing the various RRB's disability benefit monitoring programs are as follows:

Subject	Begins with Sections
Electronic Data Processing (EDP)	
disability policing program	8.2.1
Disability State wage matches	8.3.1
Other reports of earnings	8.4.1
DBD call-up program	8.5.1
Annual reminder notices program	8.6.1

8.1.2 Jurisdiction

The Board has granted the authority to the Disability Benefits Division (DBD) to conduct all of the various benefit monitoring activities of disabled annuitants on the rolls and to determine if their disability benefit entitlement is to be continued or terminated based on the latest medical evidence obtained and/or past and current work reported activities.

DBD monitors the four types of beneficiary on the rolls, i.e., occupational disability annuitant, total and permanent disability annuitant, disabled widow and disabled child. The benefit monitoring activities of these beneficiaries are governed by the Railroad Retirement Act (RR Act) and the regulations and procedures which flow from the Act.

Also, DBD monitors the four types of beneficiaries on the rolls entitled to early Medicare coverage under the Social Security Act (SS Act) when applicable. In handling these benefit monitoring activities, DBD applies the regulations of the Social Security Administration (SSA) in the same manner as does the Secretary of Health and Human Services.

The SS Act governs benefits allowed under Title II of that Act. Those benefits include the disability insurance benefit, the disability freeze and Medicare eligibility.

Remember that when there is a cessation of disability in a joint freeze case resulting from the benefit monitoring determination, the RRB is obligated to inform SSA about this determination by using a form G-26f to furnish a copy of the G-325a plus any pertinent background material to them.

If there is a question of fraud noted in the review process of a benefit monitoring case, no further development action is to be taken. The actual investigation of fraud falls under the jurisdiction of the Office of Inspector General (OIG). Refer to DCM sections 8.8.3 and 8.9.1 for more information.

8.1.3 Program Integrity Activities

The mission of the Railroad Retirement Board is to administer and carry out in an efficient, effective and equitable manner those functions and responsibilities assigned by law. Paramount among those functions and responsibilities is to pay benefits as provided under the Railroad Retirement Act (RR Act) to the right person, who meets all eligibility requirements, in the right amount and timely.

Therefore, it is mandatory that DBD conduct various ongoing benefit monitoring reviews to verify the accuracy and continuing entitlement to payments for the disabled beneficiaries on the rolls.

DBD's various benefit monitoring programs fall into one major tracking system, and that system undergoes a yearly vulnerability assessment and internal control review to verify its effectiveness. An assessment and a review of the benefit monitoring system are mandated by the Federal Manager Financial Integrity Act of 1982 and the Office of Management and Budget (OMB) Circular No. A-123.

Also, the Federal Managers Financial Integrity Act mandates that a statement be made by each agency head to the President and Congress as to whether there are adequate internal accounting and administrative controls and whether the system provides reasonable assurance that:

Obligations and costs are in accordance with applicable laws;

Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and,

Revenues and expenditures are properly recorded and permit the preparation of reliable financial and statistical reports.

DBD is responsible to perform other program integrity reporting activities. In one report, program integrity data is provided quarterly to the Chief Financial Officer (CFO). This report covers the various ongoing benefit monitoring programs such as the electronic data processing (EDP) disability policing activities, the disability State wage matches,

and continuing disability reviews (CDR) determinations. The CDR determinations involve cases called-up for investigation to determine if medical improvement is expected, possible or not expected and cases where work is reported. Also DBD reports yearly to the CFO on the benefit monitoring activities for inclusion in the RRB's budget briefing book.

The program integrity reports help to provide valuable data for measuring how effective the RRB's various disability benefit monitoring programs are being conducted and how accurate are the rolls for entitlement of the disability beneficiaries.

8.1.4 Continuing Disability Review (CDR) Cases

After the Railroad Retirement Board (RRB) initially awards disability benefits, the RRB is statutorily required to periodically review disability annuitant's impairment(s) and work activity to determine if the annuitant continues to be entitled to disability benefits. The RRB calls this evaluation a **Continuing Disability Review (CDR)**.

RRB regulations in 20 Code of Federal Regulations (CFR) § 220.185 through 187 and 220.15 through 20 describe the broad categories of circumstances when the RRB will conduct a CDR and the frequency of review of disability determinations under the Railroad Retirement Act (RR Act). Similarly, since the RRB also is responsible to make disability freeze or early Medicare (widows and children) determinations under the Social Security Act for certain individuals, the RRB is also required to follow Social Security Administration regulations in that regard. 20 CFR § 404.1588 through 1591 describe the broad categories of circumstances when the RRB will conduct a CDR for those situations.

A CDR is initiated and performed by examiners in the Disability Benefits Division - Disability Post Section (DBD-DPS). When a CDR is scheduled, the disability annuitant is notified

- that the annuitant's eligibility is being reviewed,
- why the RRB is reviewing the annuitant's eligibility,
- when necessary, of the right to submit (new or updated) medical or other evidence regarding his/her health or condition and that information will be evaluated under our rules for medical improvement, and
- that the review could result in either suspension or termination of benefits.

A CDR for RR Act disability determinations apply to either cases rated as an occupational disability or cases rated as a total and permanent disability. If evidence obtained in the review indicates benefits should be stopped, the annuitant is notified of the decision in writing and given an opportunity to appeal. During the CDR, every effort is made to develop complete information on the annuitant's impairment and/or work

activity. If an annuitant is found not to meet the disability criteria, we must terminate the disability entitlement.

8.1.4.1 Classifying CDRs

Generally speaking we can break CDRs into two categories: Medical Reviews and Earnings Reviews. These reviews can be triggered by a variety of events and require the disability examiner to make an evaluation based on the information that is gathered.

A. Medical Reviews

The following events typically initiate a Medical Review:

- CDR Call-ups:
 1. Medical Improvement Expected (MIE)
 2. Medical Improvement Possible (MIP)
 3. Medical Improvement Not Expected (MINE) [NOTE: By regulation, the RRB is not required to review MINE cases]
- Self-Reporting of medical improvement
- Third Party reporting of medical improvement
- Evidence generated from a new application for additional benefits raise questions as to whether disability continues. For example, an occupational disability annuitant files an application for Early Medicare. As part of his application package he indicates that he is self-employed as the owner of a car repair garage. He claims that he only owns the company and that his sons do all the work. Additional development would be necessary.
- Disabled Adult Child (DAC) conversions
- Responses from RL-4 or RL-5 Annual Disability Reminder Notices
- Office of Inspector General (OIG) Case Closings or referrals

B. Earnings Reviews

The following events typically initiate an Earnings Review:

- Electronic Data Processing (EDP) Policing Efforts
- Recalculate for Service and Compensation Updated to EDM (RESCUE) Referrals

- Self-Reporting of work and/or earnings (after successful completion of a trial work period (DCM 10.5.4))
- Third Party reporting of work and/or earnings
- Pay for Time Lost
- RL-4/RL-5 Responses
- RL-7 Responses
- DAC Conversions
- OIG Case Closings

8.1.4.2 Events That Prompt a CDR

Below is a general guideline of when Medical and Earnings CDR events occur and performed.

- Call-Ups – A call-up for MIE, MIP or MINE is established by the disability examiner. Refer to DCM 8.5.2.
- Self/Third Party Reporting – This can occur at any time. Self Reporting is initiated by the disabled annuitant in response to better or improved health, a return to work or some kind of earnings/compensation. Third Party reporting is initiated by an individual (family member, representative payee, friend, neighbor, boss, co-worker, etc.) or entity (company/corporation, government agency, social service organization, etc.) who contacts the RRB to report that the disabled annuitant may no longer be disabled or may not have been disabled at all (i.e., potential fraud – see DCM 8.8, Fraud Possibly Involved, and DCM 8.9, Office of Inspector General (OIG) Coordination of Benefit Monitoring Activities).
- DAC Conversion – The name informally given to the process which occurs when a modified Form AA-19a is filed for a disabled child annuity after the employee dies and the child has been rated disabled in the past for the purposes of being included in a railroad employees overall minimum (O/M) calculation or to qualify another individual as a result of being in his/her care. See DCM 3.10.15 when a CDR development would be required.
- RL-4/5 Responses – Each year (usually in October), the RRB releases the RL-4 and RL-5 annual disability reminder notices. The purpose of this notice is to remind annuitants of their responsibility to report any event that may impact their annuity. The RL-4 is for retirement disability annuitants while the RL-5 is for survivor disability annuitants. The RRB may be contacted by the

disabled annuitant (or a third party such as representative payee) sometime after release and receipt of the RL-4/5's.

- RL-7 Responses – Each year the RRB releases the Form RL-7 *Disability Reminder Notice – Disabled Annuitant Under Earnings Limit* to disabled employee annuitants under full retirement age (FRA) who have earnings under the allowable limits. This notice reminds these individuals of their responsibility to report earnings for any month in which they exceed the monthly earnings limit or if their total earnings exceed the annual earnings limit. RL-7s are sent to imaging when released.
- EDP - Each year the RRB requests earnings information for disability annuitants from SSA. Earnings information obtained through this monitoring on disabled annuitants is sent to DBD for possible CDR. The cases sent to DBD are usually cases where the earnings exceed the annual earnings limit. (However, there may be situations where DBD may investigate earnings equal to or near the annual earnings limit).
- RESCUE - The RESCUE operation is run about four times per year to make mechanical annuity adjustments in response to changes in railroad service, railroad compensation, or social security wages posted to the Employment Data Maintenance database (EDM). RESCUE also issues SALSA payments in response to changes made in the separation payments master records. As a result, earnings information on disabled annuitants is sent to DBD for possible CDR.
- Pay for Time Lost – In certain instances a case may be referred to DBD for a CDR due to the settlement of a pay for time lost claim.
- OIG Cases – An OIG review (either by RRB, SSA or some other agency) that results in a referral of the case back to DBD for a CDR. **NOTE:** DBD may use the OIG's documentation in the claim folder and/or Imaging when doing a CDR. This means that medical, earnings and other information stated in the OIG's documentation can be used for a CDR determination.

8.1.4.3 General Guidelines to Perform a CDR

Like most disability cases, CDR cases are unique in that each case has its own particular circumstances. DCM 10.2, Occupational Disabilities, and DCM 10.3, Disability for Any Regular Employment, provides guidance on cases where annuitants return to some kind of regular employment. In addition, while MIP mailers are not considered CDR decisions (but rather a determination to defer a CDR decision) there is procedure that deals with MIP mailers and CDR development in DCM 8.5, Continuing Medical Disability Review Determination.

8.1.4.4 Tracking CDR Cases

Currently DBD tracks cases by a variety of measures. EDP cases are loaded to USTAR; CDR cases are tracked manually through the CDR Call-up program; third party, self-reporting, RL-4/RL-5, and RL-7 are manually monitored. Due to the variety of cases, DBD staff controls the cases through the resources available.

8.2 Social Security Wage Data Exchange

8.2.1 Electronic Data Processing (EDP) Disability Policing

This section discusses the Disability Post Section's (DPS) Electronic Data Processing (EDP) policing procedure.

Any annuitant receiving an annuity based on disability must report to the Railroad Retirement Board (RRB) any work and earnings which is performed or received by the annuitant in employment or self-employment. The purpose of the EDP policing program is to let the RRB know if an individual has received wages which may be subject to restrictions under the Railroad Retirement Act (RR Act).

Form G-805 referrals produced from EDP policing will be matched with folders and delivered directly to DPS so that examiners can determine if overpayments exist due to unreported work activity. If a case is referred from DPS to another adjudication unit, DPS will specify the reason the case is being sent.

8.2.2 Categories of Annuitants Policed

DPS is responsible to police four types of annuitants up to a designated age as follows:

Types of Annuitants	Age as of policing year
1) Disabled employee	0-65
2) Disabled child as Ineligible Person Included (IPI)	0-65
3) Disabled survivor child	0-65
4) Disabled widows	0-60

8.2.3 Amount of Earnings Required To Generate A Referral

For disability annuitants, a G-805 referral is produced for annuitants who have any posted earnings regardless of the amount.

8.2.4 Handling Of G-805 Referrals

When a G-805 referral is matched to a folder, the case is handled to determine if the correct annuity amounts were paid for the calendar year being policed and if work deductions should be assessed. If an employee annuitant returns to railroad service or has earnings over \$850 per month, after deductions for disability related work expenses, the disability post examiner will suspend the annuity and notify the annuitant of the suspension and rights to future payments. Refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limit.

The disability post examiner checks the folder for years previous and subsequent to the calendar year being policed to determine if there are additional years for which an overpayment exists. Develops for excess earnings in these years and take action to recover any overpayments for those additional years.

NOTE: Be sure that a recomputed PIA (if applicable) was used to calculate the annuity amounts. If the appropriate G-90 is not already in the folder, forward the case to the Retirement Post Section (RPS) for their appropriate action.

If substantial earnings are reported to the annuitant's wage record or the annuitant successfully completes a trial work period (See DM Chapter 10), the disability post examiner will make a recovery from disability determination (See DM Section 8.7).

8.2.5 Discrepant Earnings Report

If more than one amount of earnings is reported for a given year such as an amount shown on a G-805 and it differs from an amount on an annuitant's wage report, use the higher of the two amounts.

If a higher overpayment results, explain the source of the earnings in the overpayment letter to the annuitant.

8.2.6 Substantial Earnings Reported For Disability Annuitant Who Has A Representative Payee

The disability post examiner will make a recovery from disability determination and request the field office to evaluate whether or not a new representative payee is needed.

The discrepancy in the earnings report may indicate that the representative payee is not aware of the annuitant's activities, or that the annuitant can manage his/her own benefit payments.

8.2.7 Handling Of Dual Cases

In cases where the annuitant is entitled to more than one railroad retirement annuity, a referral will be produced for the employee annuity only. After the disability annuitant

has been processed, forward the folder to RPS to assess work deductions to any other annuity if applicable.

8.3 Disability State Wage Match

NOTE: State Wage Match (SWM) for disability cases ended in January 2006. While WORKLIST has not been updated since January 2006 to include SWM referrals any existing information on WORKLIST can be used when completing an earnings CDR.

8.3.1 Historical Background

State wage match is a program in which wage and unemployment benefit information is obtained from a State under a contract agreement in accordance with the Computer Matching Act. The Bureau of Unemployment and Sickness Insurance (BUSI) had a limited program established with certain States and in early 1990 was encouraged by the Office of Management and Budget (OMB), in a review of internal controls, to expand the program to include more States. In July 1990 the Director of Administration and Operations (DAO) directed the Bureau of Disability and Medicare Operations to coordinate development of the Disability State Wage Match program with BUSI.

At this time, BUSI had contract agreements with 10 States which they negotiated amendments to include individuals paid under the Railroad Retirement Act (RR Act). It was further agreed upon that all subsequent contract agreements with other States would be negotiated by BUSI. The Data Integrity Board of the RRB reviews the contract agreements and approves when we can begin matching program operations.

8.3.2 Records Used To Conduct Match

The Master Benefit File (MBF) maintained by the Bureau of Research and Employment Accounts (BREA) identifies all disabled annuitants actively paid on RRB rolls. This record is used with the Checkwriting Integrated Computer Operation (CHICO) file to produce a record of both retirement and survivor annuitants under age 65. The record consists of the name, social security number (SSN) and address of disabled individuals by the State in which they live.

8.3.3 When A Match Is Executed

Once the Data Integrity Board approves when the matching program operations can begin, BUSI creates a file of their beneficiaries and requests that DPS create a similar file of disabled annuitants for that particular State. Usually, matches are conducted twice a year for each State based on contract agreements negotiated by BUSI. The Claims, Policies and Procedures Section (CPPS) coordinates this effort for DSUBD.

8.3.4 Actions By CPPS

When contacted by BUSI to request that a tape file be created for a particular State, a CPPS specialist completes Form G-581a, Computer Work Request. A specially

designed Form G-581a (see Appendix B) lists all States with the data set names (DSNs) used to identify the control file of disabled annuitants by State. Space is provided on this form to enter the MBF and CHICO cassette numbers. Every two months the CPPS specialist arranges to obtain updated files of both the MBF and CHICO records. The actual file (tape) sent to the State is created by BUSI, which developed a program to combine our tape file with theirs. The State returns a file with matched records to BUSI and a separate program organizes their records in a format suitable for each bureau. The CPPS specialist requests a listing and referrals from BDP by completing a specially designed Form G-581a (see Appendix B).

When the listing and referrals are received and checked, CPPS forwards them to the Office of Inspector General (OIG) for investigation (see Appendix B for a sample of both a listing and referral). The OIG determines which cases they will open for investigation based on their experience of those which would result in a successful criminal prosecution. Other cases identified on the match are specifically referred to DPS for further investigation. A quarterly report prepared by the CPPS specialist is prepared for submission to the DAO providing information about tape files created, output received and referred to OIG for investigation and DPS's disposition of cases referred by the OIG for further investigations.

8.3.5 Actions By The Disability Post Section (DPS)

Referrals generated by the disability State wage match must all be accounted for by DPS. After a listing and referrals are sent to the OIG, they are all returned to DPS. These referrals would be in one of three possible categories:

A. OIG OPENS INVESTIGATION

The OIG screens all the referrals and determines those which can be tried for criminal prosecution. These are generally employee cases with excess earnings. We are notified by the OIG in a memorandum listing cases which they have opened for investigation. They will provide us with a report on their final disposition of these cases.

B. OIG REFERS CASES TO DPS

Some cases are determined by the OIG as needing further investigation, but are not considered worthy of investigating for criminal prosecution. These are listed by the OIG in a memorandum and referred to DPS for appropriate development. DPS is required to provide a quarterly report on the status of their handling of these cases. Appropriate development is initiated in accordance with instructions given in DM Chapter 10.

C. DPS INITIATES INVESTIGATION

Cases which are neither opened for investigation by the OIG nor referred to DSUBD by OIG for further investigation may require investigation by DPS. As

previously stated, the OIG primarily focuses on excess earnings. They do not consider earnings that require consideration for setting up a trial work period (TWP). DPS must examine referrals which do not fall into categories A or B to determine if a TWP must be established. Appropriate development should be followed as described in DM Chapter 10.5.3.

To be sure that all referrals identified by the State wage match are properly considered, category C requires that the DPS screen all referrals which were not identified in categories A and B. Some of these cases may have already been targeted for investigation through the EDP disability monitoring program. An effort will be made to identify such cases to avoid duplication of any development and counting the same file twice in our workload.)

8.4 Other Reports of Earnings

8.4.1 Third Party Sources

The term third party is used by the Disability, Sickness, and Unemployment Benefits Division (DSUBD) when DSUBD refers to someone other than the annuitant or his/her representative payee. A third party source may be an employer, an anonymous informant, a competing claimant, a Railroad Retirement Board (RRB) office (field or regional), Office of Inspector General (OIG) or any other governmental agency (Federal or State). This definition does not include any reference to RRB's mechanical benefit monitoring programs, e.g., electronic data processing (EDP) disability policing and disability state wage match program.

8.4.2 Action Taken When a Third Party Informs That The Disabled Annuitant Has Earnings

When information is received from a third party that shows earnings for an RRB disabled annuitant, contact the field office and have them attempt to verify that information from the annuitant or his/her representative payee directly.

If the field office is able to verify the information, the disability claims examiner in DSUBD's post section is to take the following steps:

Review the information and facts in the case and determine whether there may be fraud (See DM 8.8.1 and 8.8.2 for general provisions and elements of fraud). If the facts show that fraud is possibly involved, the case is to be forwarded to the OIG coordinator in the claims, policies and procedures section (CPPS). (See DM 8.9.1 for details about case referral to the OIG).

Information obtained indicates that the disabled annuitant has made an unsuccessful work attempt (UWA). Refer to DM Chapter 10.5.2 for procedures on UWA cases.

When a disabled annuitant advises that he/she just started to work and has earnings of more than \$200 a month, establish a call-up on the PC callup program. The case

should be called up at the end of the trial work period (TWP). See DCM Chapter 10.5.3 for details about TWP handlings.

If the information shows that the disabled annuitant has demonstrated the ability to perform substantial gainful activity (SGA) on a continuous basis, take proper G-325a adjudicative action. See DCM Chapter 10.6.2 for details about termination for third party information cases.

Remember that each step taken in the review process must be documented. This documentation helps to establish an audit trail in the folder for future benefit monitoring reviews.

8.4.3 Action Taken When a Disabled Employee Annuitant Reports Work and Earnings

In some instances, DBD will receive correspondence from disability annuitants stating that they would like to try to work or that they have already started work. Examiners need to evaluate these requests to determine if the work will affect the disability annuity or disability freeze.

When examiners receive such correspondence, it is important to review the document to determine:

1. The amount the person will earn each month.

If it is determined that an annuitant has earnings that are less than \$850/mo (effective 1-1-2015) then it is not necessary to apply disability work deductions to their annuity. In cases where earnings are greater than or equal to \$850/mo (effective 1-1-2015) the annuity is to be suspended. Refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits.

2. If the work is similar to past work.

Work that is similar to an annuitant's past work will need to be investigated to determine if the annuitant has recovered from their disability. If the correspondence indicates that the annuitant is returning to LPE then you need to get the folder and determine the effect the work will have on the benefit.

3. If the work indicates medical improvement.

In some instances a return to work may indicate that the annuitant's condition has improved.

8.4.3.1 Processing Correspondence From an Employee Without the Folder

In some cases the correspondence may be handled without the folder. Examiners can check various systems (OLDDS, STAR, WORKLIST Remarks, D-brief, etc.), for available information pertaining to the case.

Correspondence received by DBD that indicates:

- a reply is not necessary (i.e., the annuitant or field office is not requesting a reply or the correspondence does not contain a question), and
- the earnings are less than \$850/month effective 1-1-2015 (refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits), and
- the work is not similar to past relevant work, and
- the new or proposed work is not more strenuous or mentally demanding than the employee's residual functional capacity (RFC) as of the previous decision,

is to be forwarded to claim files as a "File Only". The examiner is to write "NAN" on the correspondence, as well as initial and date the correspondence.

8.4.3.2 Processing Correspondence From an Employee With the Folder

When correspondence is received in DBD and the correspondence provides information on work and earnings that:

- requires a reply, or
- shows earnings over \$850/month (refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits), or
- describes duties that are similar to past work (or is LPE), or
- describe work that is more strenuous or mentally demanding than the annuitant's RFC,

it will be necessary to obtain the folder to determine if the work and the disability can be reconciled.

In cases where the annuitant does not provide enough information to make a reply, the examiner will need to contact the field office to obtain the necessary information.

When you have sufficient information, it is then necessary for the examiner to compare the annuitant's disability with their past work. The comparison is dependent on the type of disability the annuitant was awarded.

1) An occupational disability annuitant with a disability freeze denial.

In cases such as these, it is necessary for the examiner to determine if the work now being performed by the annuitant is similar to the regular railroad occupation in which the annuitant was found disabled.

For example, an annuitant writes in and informs us he is now considering working 20 hours a week and earning \$500/month as a lawn hog. The work requires him to sit on a lawn mower and empty out the lawn bin when it gets full. He reports the lawn bin, when full, weighs 20 pounds. The employee's regular railroad job of a carman required him to repair railroad cars. This required him to lift up to 75 pounds frequently and be on his feet for more than 6 hours in an 8 hour day. A lifting restriction of lifting 50 pounds occasionally precluded him from performing his regular railroad occupation. In his new job as a lawn hog he does not perform similar duties to his regular railroad occupation or lift 50 pounds, he would be able to perform this work with no effect on his benefit. Form RL-213B, *Work Does Not Affect Annuity*, should be released to the annuitant and it should include the specific job title in the letter.

2) *A total and permanent disability annuitant or an occupational disability annuitant with a DF.*

In cases such as these it is still necessary to compare the job duties as discussed above in item 1. In addition, it is necessary to determine if the performance of the job duties are an indication of medical improvement or if these job duties would no longer preclude the annuitant from performing all work in the national economy.

Example 1

A 48 year old occupational disability annuitant with a DF allowance was found disabled for all work based on equaling Listing 4.04. The annuitant sends in correspondence indicating that he is considering work as a lawn cutter. He states that he feels his condition has improved enough to handle this work. Based on this information it would be necessary to request a Form G-254, Continuing Disability Review, along with all medical evidence from the past 12 months as there is an indication there has been medical improvement. After receiving this information, process a formal CDR decision on Forms G-325a and G-325.1 and release the appropriate CDR letter.

Example 2

A 52 year old annuitant writes the RRB informing us he is considering accepting a position at WalMart as a greeter. He would be standing/walking 5 hours per day. He was found totally and permanently disabled for all work due to a herniated disc at the L5-S1 level that required surgery. Three months post-op records show that he required a cane to ambulate and was given a light RFC with a restriction in standing/walking at least 2 hours in an 8 hour day for a sedentary framework. Based on the information provided by the annuitant there is an indication that the standing/walking restriction may no longer apply. The disability examiner should request a Form G-254, Continuing Disability Review, along with all medical evidence from the past 12 months. After receiving this

information, process a formal CDR decision on Forms G-325a and G-325.1 and release the appropriate CDR letter.

Example 3

A 55 year old annuitant was found disabled for all work due to severe arthritis in both knees. At the time of the disability rating he had a medium RFC with a restriction in standing/ walking 2 hours in an 8 hour workday. He has been offered a job as a lunch room monitor at a local school. The job requires him to sit in the cafeteria for 2 hours per day with no lifting or carrying. He will be paid \$350.00 per month. There is no evidence of medical improvement or that he would be performing duties that he was precluded from in his original disability decision, so he can do this work with no effect on his benefit. Form RL-213B, Work Does Not Affect Annuity, should be released to the annuitant and it should include the specific job title in the letter.

8.4.3.3 Correspondence from Widows and Children

When correspondence is received from disabled widows or disabled children pertaining to starting work evaluate the correspondence as explained in DCM 8.4.3.1 and 8.4.3.2. Since work deductions do not apply to survivor annuities, there is no need to suspend a survivor annuity when they report they are earning over the disability work deduction amount. Rather it will be necessary to determine if the earnings will count towards a trial work month and if the earnings are over SGA. (Refer to DCM 10.5.4 for the current TWP amount and DCM 10.4.4 for the current SGA amount.).

Even though IPI children may qualify an employee annuitant for inclusion in the O/M or for early Medicare, correspondence received from them stating their intention to begin work does not result in a suspension of the employees O/M benefit or Medicare entitlement. Rather it will be necessary to perform a full CDR to determine if a suspension of these benefits is required.

8.5 Continuing Medical Disability Determination

8.5.1 Continuing Disability Review Process

The disabled annuitant's impairment(s) must be periodically reviewed until the employee or child annuitant reaches age 61 ½ and the widow reaches age 59 ½ to determine if the annuitant is still eligible for disability benefits. This evaluation is called a continuing disability review (CDR). When a CDR is started, the annuitant will be notified of the following:

- that the annuitant's eligibility for disability benefits is being reviewed,
- why the annuitant's eligibility is under review,
- that in medical reviews the medical improvement review standard will apply,

- that the review could result in the termination of the annuitant's benefits, and
- that the annuitant has the right to submit medical and other evidence during the CDR process.

If the CDR shows that payment of disability benefits should be terminated, the examiner will notify the annuitant in writing and give the annuitant an opportunity to appeal.

The disability examiners establish diaries for future actions based on an initial DF rating decision or to follow-up on CDR determinations. The required diary information is entered into the CDR PC call-up program.

8.5.2 Continuing Disability Classifications

The Board's disability monitoring system contains the following four medical improvement classifications:

1) **Medical Improvement Expected (MIE)**

An MIE classification refers to a case which is scheduled for review at a later date because the individual's impairment(s) is expected to improve. Generally, the diary period is set for not less than 6 months or not more than 18 months. The MIE diary also includes a case which is scheduled for a CDR at a later date because the individual is undergoing vocational therapy, training, or an educational program which may improve his ability to work so that the disability criteria of the law is no longer met. Generally, the diary period will be the length of the training, therapy, or program education.

2) **Medical Improvement Possible (MIP)**

An MIP classification refers to a case in which a medical improvement in the person's impairment(s) is possible. This means an impairment for which improvement cannot be predicted based on current experience and facts on the particular case but which is not at the level of severity of an impairment that is considered permanent. MIP cases are reviewed at least once every 3 years.

3) **Medical Improvement Not Expected (MINE)**

A MINE classification refers to a case in which any medical improvement in the person's impairment(s) is not expected. This means an extremely severe condition determined on the basis of our experience in administering the disability program to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications, and unlikely to improve so as to permit the individual to engage in substantial gainful activity. These cases will not be routinely reviewed. See DCM 8.5.3C for special criteria for settling MINE classifications.

4) **Administrative Appeal**

When an annuitant is found eligible to receive or to continue to receive disability benefits on the basis of a decision by a hearings officer, the hearings officer will enter the information in the PC call-up program. The call-up date and type of diary is set by the hearings officer. If the three-member Board or a Federal Court is making the decision, the disability claims examiner who will process the OLDDS input will also enter the diary in the PC call-up program. The type of diary and call-up date is to be based on the same criteria used by disability claims examiners. However, if the three-member board or Federal Court recommends a diary and call-up date, use the date recommended.

The disability monitoring system also calls up cases involved with earnings, return to Railroad service, SSA Tracing, and any other category. Do not set a diary in cases in which an employee or child would be more than age 61 1/2 or a widow would be more than age 59 1/2 at the time the diary would expire.

8.5.3 Applying Medical Improvement Classifications

Some medical improvement classifications and diaries are set and required according to the SSA listings, while others are set based on adjudication according to a particular body system and the type of diary specified for that impairment. Some classifications are based on the annuitant meeting or equaling the listings, while others may only refer to the listing used in a favorable determination based on the medical vocational rules.

A special situation occurs in the determination of medical improvement classification for cases that have an occupational disability rating with a disability freeze allowance. In addition to consideration of the likelihood of recovery from the occupational disability, the classification must reflect the likelihood of recovery for the DF, which is based on the T&P Medical Improvement Review Standards.

The classifications in the three following sections are organized according to the body systems cited in the T&P listings.

A. MIE (Medical Improvement Expected)

Generally, the MIE diary is set for one year when conducting the CDR, but it could be as short as six months or as long as 18 months from the month of the current determination, but not sooner than 12 months after the onset date. MIE diaries are generally established for the following body systems/impairments:

- Chronic back sprains and strains when medical onset is within 6 months of adjudication and when severe, irreversible residuals are not confirmed *and* for which physical or non-surgical therapy is ongoing.
- Back conditions (of any medical onset) which are in the post-surgical convalescent period or for which surgery is scheduled within 3 months of the determination *and* when severe, irreversible functional limitations, which would preclude work, are not anticipated.

- Fractures where severe, irreversible functional limitations, which would preclude work, are not anticipated after healing or in the post-surgical convalescent period or where surgery is planned within 3 months of adjudication and medical improvement is likely *and* no functional limitations, which would preclude work, are anticipated.
- Arthritis (Rheumatoid and Other Chronic Inflammatory Arthritis) with initial medical onset within 12 months of determination, and without severe, irreversible deformity resulting in permanent impairment of function.
- Asthma (meets Listing 3.03B) based on frequency of episodes with an absence of severe, irreversible lung disease.
- Heart Transplant (meets Listing 4.09) requires diary for 12 months from the month of transplant.
- Kidney Transplant (meets Listing 6.02B) requires diary for 12 months from the month of transplant.
- Leukemia (meets or equals Listing 7.17), Chronic Myelocytic Leukemia (CML), or other hematologic malignancies (e.g., lymphoma) with bone marrow transplant require diary for 12 months from the month of transplant.
- Central Nervous System Trauma when medical onset is within 6 months of adjudication, *and* severe, irreversible brain damage is not confirmed, *and* progressive improvement of function is demonstrated.
- Epilepsy (meets Listings 11.02, 11.03) in forms which can be controlled with medication. Exclude forms of epilepsy for which control with medication is improbable, such as those associated with identifiable brain damage resulting from inborn errors of metabolism, degenerative disorders, or trauma (e.g., psychomotor temporal lobe epilepsy, myoclonic epilepsy, infantile spasms, akinetic epilepsy, etc.).
- Peripheral Neuropathies, including acute polyradiculopathies (e.g., Guillain-Barre syndrome), which are undergoing treatment, therapy, or surgery, and which should resolve or result in improvement of the condition.
- Affective Disorders (meets or equals listing or is based on medical vocational allowances under Listing 12.04) when initial medical onset is within 12 months of determination.
- Intellectual Disability (meets Listing 12.05C) when a mandatory MIE diary would be appropriate for the secondary impairment because the secondary impairment will no longer be expected to be severe by the proposed diary date.
- Organic Brain Disorders (meets or equals Listing 12.02) when due to trauma, toxins, or infections, *and* initial medical onset is within 12 months of determination, *and* severe, irreversible brain damage has not been confirmed.

- Neoplasms when the individual currently meets one of the neoplastic listings and has been in a period of remission which has already lasted 6 months or longer.

Other cases may be classified as MIE if one or more of the following criteria exist:

- Medical onset of the disabling impairment is within 3 months of adjudication (i.e., onset is acute or sudden), *and* no severe, irreversible organ or structural damage is confirmed, *and* outcome is highly unpredictable due to the nature of the impairment.
- Initial medical onset for the disabling impairment is within 12 months of adjudication, and no severe, irreversible organ or structural damage has been confirmed, and the impairment is responding favorably to treatment or therapy.
- The disabling impairment (regardless of medical onset) is demonstrating significant, sustained, and progressive improvement, (e.g., combination of impairments including obesity as a contributing factor, with weight loss).
- The disabling impairment (including impairments such as lupus erythematosus, inflammatory arthritis without irreversible joint destruction, and certain cancers) is likely to remit for sustained periods with prescribed treatment.
- A recent or planned intervention should result in medical improvement, *and* the individual should have the functional capacity for work (e.g., a new therapy or treatment has been initiated within the last 3 months or is planned within 3 months of the determination).
- Other surgeries when adjudication takes place in the post surgical convalescent period or when surgery is scheduled within 3 months of adjudication, *and* the surgery will either resolve the impairment or improve the condition, *and* no severe, irreversible structural damage sufficient to meet or equal the listings or functional limitations, which would preclude work, are probable.

B. MIP (Medical Improvement Possible)

Establish the MIP diary for 36 months (3 years) from the month of adjudication.

The MIP classification applies to individuals who:

- May improve and be able to engage in SGA (Substantial Gainful Activity) but whose improvement cannot be predicted based on current program experience or the facts of the particular case and
- Do not meet the MIE (Medical Improvement Expected) diary criteria listed in the first section or MINE (Medical Improvement Not Expected) criteria in the following section. (See the following instructions and list).

In addition, there are two MIP diaries required by the listings:

- Chronic Liver Disease with Esophageal Varices Resulting in Massive Hemorrhage or Requiring Shunt Operation (Listing 5.05 A/B) require a diary 3 years from the date of the last major hemorrhage or from the date of the shunt operation. (See also POMS DI26525.030C.)
- Leukemia (meets or equals Listing 7.11 or 7.12) without bone marrow transplant. Diary for 2 1/2 years from initial diagnosis. (See also POMS DI26525.030C.)

C. MINE (Medical Improvement Not Expected)

Although MINE cases will not be routinely reviewed, enter a 6-year diary on the PC call-up program for tracking purposes. The MINE classification applies to individuals with impairments which are extremely severe, chronic and frequently progressive. MINE conditions are unlikely to ever medically improve or to permit substantial gainful activity.

Cases may involve impairments that meet or equal the SSA listing, or that may result in a favorable decision based on medical vocational factors. The consideration of the chronicity and severity and likelihood of progression must be considered. Some conditions are degenerative and, at best, will remain the same, but more likely will worsen over time. Many listing severity (meet/equal) conditions are such that they may be considered MINE cases (see the following list). Other cases, allowed on a medical vocational basis are chronic and severe but the likelihood of improvement may be outweighed as time passes by the adversity of the vocational profile.

In addition to medical factors, vocational factors also affect the type of diary to be set. Set a MINE diary in the following situations:

- Occupational cases in which the DF is being denied.
- Annuitants over 54 ½ years of age. At this age, the medical vocational rules may provide for a continuance due to adversity of advanced age even if a condition improves to sedentary or light levels of exertion. The likelihood of improvement to medium or heavy work is remote.

Also annuitants who will attain age 54 and one-half years of age at the time a call-up expires. For example, an annuitant is age 52 and a MIP is set by the consulting MD. Since the annuitant will be over age 54 and one-half years of age when the call-up expires, a MINE diary should be set.

- Annuitants who have not worked in over 15 years at the time the diary is being set. After 15 years, an individual is deemed not to have any work experience if he has not worked in SGA.

The following is a list for MINE impairments.

- Arthritis of one major joint in each upper extremity .

- Disorders of the spine (arthritis manifested by ankylosis or fixation at 30 degrees or more) (1.04).
- Amputation or permanent loss of use of two limbs (1.05).
- Amputation of leg at hip (1.05D).
- Amputation of leg or foot because of diabetes or peripheral vascular disease.
- Statutory blindness with markedly reduced ability to see objects, (except if due to cataracts or detached retina) and not correctable by surgery, other treatment, or glasses (2.02, 2.03A/B).
- Loss of visual efficiency with visual efficiency of better eye after best correction 20 percent or less (2.03C, 2.04).
- Hearing impairments with hearing not restorable by a hearing aid (2.08A/B).
- Chronic pulmonary insufficiency (3.02).
- Ischemic heart disease with chest pain of cardiac origin (4.04A/B/C).
- Chronic venous insufficiency (4.11).
- Peripheral arterial disease (4.12).
- Impaired renal function due to chronic progressive disease or incurable kidney disease documented by persistent adverse objective findings, resulting in severely reduced function, and which may require dialysis or transplant (6.02). If a transplant obtained, check MIE diary instructions.
- Chronic Myelogenous Leukemia (CML) without bone marrow transplant (7.17).
- Diabetes mellitus with manifestations as required by the applicable listing (9.08).
- Central nervous system vascular accident, with manifestations as required by the applicable listing more than 3 months postvascular accident (11.04.)
- Parkinsonian syndrome, with disturbance of movement, gait, or station as required by the applicable listing (11.06).
- Cerebral palsy, with manifestations as required by the applicable listing (11.07).
- Spinal cord or nerve root lesion resulting in paraplegia or quadriplegia, or damage to the spinal cord or major branches resulting in markedly reduced function in two or more extremities (11.08).

- Multiple sclerosis, damage to the nervous system due to areas of inflammation which recur and may progress to interference with function of the nervous system, including severe weakness or paralysis (11.09).
- Amyotrophic lateral sclerosis (11.10).
- Anterior poliomyelitis, with interference in swallowing, breathing, speech, or motor function as described in the applicable listing (11.11).
- Muscular dystrophy, a chronic progressive disease causing irreversible wasting of the muscles with a significant effect on the ability to use the arms and/or legs (11.13).
- Degenerative disease, such as Huntington's Chorea, Friedreich's Ataxia, and spinocerebellar degeneration, with manifestations as required by the applicable listing (11.17).
- Tabes Dorsalis.
- Subacute Combined Cord Degeneration (11.16).
- Syringomyelia(11.19).
- Intellectual Disability with manifestations as required by the applicable listings (12.05 A and B).
- Annuitants disabled due to chronic psychotic disorders if the date of onset was at least 5 years before adjudication (12.03).
- Scleroderma or progressive systemic sclerosis (14.04).
- Acquired Immunodeficiency Syndrome (Documented AIDS) (14.08).

NOTE: The Listings in parentheses on the above list refer to the Listings under which a claim is adjudicated. This does not imply that a Listing must be met or equaled if the last favorable decision was based on a medical vocational evaluation.

8.5.4 When to Conduct a CDR

CDRs are conducted to determine whether or not the annuitant continues to meet the disability requirements of the law. The disability annuity and/or a period of disability ends if the medical or other evidence shows that the annuitant is not disabled under the standards set out in section 2 of the Railroad Retirement Act.

A CDR will be started if:

1. The annuitant has been scheduled for MIE, MIP, or Administrative Appeal call-up review.

2. Current medical or other reports are needed to see if the annuitant's disability continues. This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease or a change in vocational therapy or technology raises a disability issue.
3. The annuitant returns to work and successfully completes a trial work period (TWP). See DCM 10.5.3 for information regarding the TWP.
4. Substantial earnings are reported to the annuitant's wage record. See DCM 10.4.1 for substantial gainful activity.
5. The annuitant tells the Board that he or she has recovered from his disability or that he or she has returned to work.
6. A State Vocational Rehabilitation Agency tells the Board that:
 - a) The services have been completed, or
 - b) The annuitant is now working, or
 - c) The annuitant is able to work.
7. Someone in a position to know of the annuitant's physical or mental condition tells the Board that the annuitant is not disabled, that the annuitant is not following prescribed treatment, or that the annuitant has returned to work, and it appears that the report could be substantially correct.
8. Evidence the Board receives raises a question as to whether the annuitant's disability continues.

8.5.5 Frequency of review

CDR cases should be conducted as follows:

- MIE: From 6 to 18 months
- MIP: At least once every 3 years
- Appeal cases: Within 3 years after the decision unless the case has been scheduled for review based on other reasons.
- Disability determination: 2 months after SSA's diary date

NOTE: Regardless of the annuitant's classification, the Board will conduct an immediate CDR if a question of continuing disability is raised pursuant to DCM 8.5.3 B.

8.5.6 Change In Medical Improvement Classification

If the evidence, developed during CDR, demonstrates that the annuitant's impairment has improved, is expected to improve, or has worsened since the last review, the annuitant's impairment may be reclassified to reflect this change in severity. A change in classification of the annuitant's impairment will change the frequency with which the case will be reviewed. Certain impairments may also be reclassified because of improved tests, treatments, and other technical advances concerning those impairments.

In addition, vocational factors may indicate that a medical impairment, which had been diaried as a non-MINE case, may actually be a MINE case. These factors include:

- Occupational cases in which the DF was denied. (However, if a freeze was granted, it may be necessary to review the case based on the Total and Permanent criteria. This is true even if the occupational impairment is permanent because there may be improvement to the extent that the annuitant could do other SGA and a cessation may be necessary with respect to the freeze only.)
- Annuitants over 54 and one-half years of age. At this age, the medical vocational rules may provide for a continuance due to the adversity of advanced age even if a condition improves to sedentary or light levels of exertion. The likelihood of improvement to medium or heavy work is more remote.
- Annuitants who have not worked in over 15 years at the point in time when a CDR is being conducted. After 15 years, an individual is deemed not to have any work experience if he has not worked in SGA. This will affect the medical vocational rule used to evaluate the CDR. Even if medical improvement has occurred in such a case, the individual will be affected by this lack of experience as well as by increasing age. In addition, a person who has been on the rolls for 15 or more years without any SGA may have a chronic condition for which improvement is not likely.
- Annuitants who have had two previous MIP medical call-up reviews and been medically continued. A person who has had two reviews at three-year intervals which reflect no significant medical improvement probably has a chronic condition which is not likely to improve.
- IPI children not in the overall minimum (O/M) or qualifying the spouse and IPI children on annuity conversion after the EE dies.

NOTE: Children must be disabled before age 22 and this alone may indicate a chronic impairment, especially if the child has been on the rolls for a prolonged period after he has been rated as a disabled child.

8.5.7 Development Steps Taken For Handling CDRs

A CDR may begin for any number of reasons including:

- scheduled diary review,
- completion of a trial work period,
- substantial gainful activity as reported to the annuitant's wage record,
- the annuitant tells DSUBD that he or she has recovered from his or her disability or has returned to work,
- disability State Wage Match information,
- social security wage data exchange notice,
- third party notice, or the annuitant's failure to follow the provisions of the Railroad Retirement Act.

In cases in which an MIP diary has expired, DSUBD will conduct a screening process (described in DCM 8.5.8) to select cases in which Form G-254a with RL-254a will be mailed to the annuitant. Depending upon the responses the annuitant gives on the G-254a, DSUBD will either conduct a full medical review or re-diary the case without further investigation.

When conducting a full medical review, DSUBD will request the field office to obtain a Form G-254, Continuing Disability Report, and any medical evidence the annuitant may have from at least the preceding twelve months.

Depending on the information from the Form G-254 and the medical evidence obtained, the disability examiner may need to request additional information regarding the annuitant's work activities and duties. The disability examiner may also need to request specialized examinations to determine the current severity of the annuitant's impairment(s).

If the disability examiner requests the field office to obtain an Activities of Daily Living (ADL) report, the examiner should fax a copy of the most recent ADL in file (if there is one), to the field. The field should only use the previous ADL as background information in developing a completely new and current ADL. The field office is to note any changes in the ADL's in the new report. If the disability examiner wishes specific activities and any changes in those activities addressed, the examiner should note that in the assignment to the field.

8.5.8 Screening Expired MIP Diaries

Examiners in the disability post section will receive a list of claim numbers of expired MIP diaries to screen. This screening process will be completed without obtaining the folder. Using AFCS, DATA-Q, PREH, WORKLIST, and EDMA to obtain information, the examiner will determine whether or not a G-254a should be released to the annuitant.

The information the examiner will need is available in the following places:

- AFCS for folder location,
- DATA-Q for current pay status and date of birth,
- PREH screen 3200 for annuity type and ABD,
- PREH screen 3255 for DF status, and
- EDMA and WORKLIST for excess earnings after ABD. The remarks section of WORKLIST may give information as to whether earnings have been reconciled.

In some instances, the examiner will discover from this information that the appropriate impairment classification should be a MINE rather than a MIP or that the annuitant is deceased or that the annuity has been terminated. In these instances, delete the MIP call-up. Where appropriate, enter a MINE call-up.

Do not release a G-254a on the following types of cases:

- AFCS shows a folder location other than claim files;
- DATA-Q shows termination; delete call-up;
- DATA-Q shows suspension;
- The annuitant is over age 54 1/2 or will be within the next 90 days; re-classify as MINE if there are no excess earnings;
- The annuitant's DLW or ABD is more than 15 years ago; re-classify as MINE;
- EDMA or WORKLIST show excess earnings after ABD that were not previously reconciled;
- PREH shows that employee annuity is occupational (screen 3200) with DF denial (screen 3255); re-classify as MINE unless there are excess earnings after the ABD that have not been reconciled;

NOTE: Do not set a MINE diary for an employee or child annuitant who will attain age 61 1/2 or a widow annuitant who will attain age 59 1/2 before the diary expires.

Send the G-254a in cases in which:

- The folder is in claim files, and
- The annuitant is in pay status, and
- The annuitant is under age 54 1/2, and
- The annuitant's DLW or ABD is less than 15 years ago, and

- There are no excess earnings after the ABD, or there are excess earnings that were previously reconciled, and
- The annuitant is a T&P employee, or an occupational employee with a DF, or a widow or child.

When sending a G-254a, a cover letter RL-254a and a return envelope should also be included. The return envelope should be labeled with the last two digits of the claim number and the words "MIP mailer." Keep a copy of the RL-254a as a control.

8.5.9 Tracing Form G-254a, Continuing Disability Update Reports

The disability examiner will trace via email for the Form G-254a 30 days after the release of the form. If the completed form is still not received within 14 days of the tracer, the disability examiner will contact the field via email or phone to find out if more time is needed to obtain the G-254a and pend accordingly. If the field indicates that they were unable to contact the annuitant, the disability examiner will send the annuitant a letter advising that benefits will be suspended in 30 days unless the annuitant contacts the field office and returns the completed G-254a. If the field indicates that the annuitant is uncooperative, advise the field office to initiate a full CDR by requesting a G-254 and current medical evidence.

8.5.10 Evaluating Items 1-4 of Form G-254a, Continuing Disability Update Reports

Evaluate the annuitant's responses to the questions on Form G-254a to determine whether to re-diary the case without further investigation, or to request a full CDR. In most instances, you will consider the responses to questions on the form and make this determination without the folder. However, if you cannot determine whether an annuitant's work has already been considered or reconciled, you will need to obtain the folder.

The following is a general guide for evaluating responses to the questions on Form G-254a without the folder.

1. Did the annuitant work for railroad?
 - No further action is needed with regards to railroad earnings if the annuitant answered "no", or if the work is prior to the disability onset date.
 - If the annuitant reports work after the disability onset date which has not already been considered, obtain the claim folder for further investigation.
 - If the annuitant is currently working in railroad service and still in pay status, suspend the annuity and release a letter to the annuitant advising of the suspension.

- Check earnings reports on EDMA or STAR for inconsistencies with the information provided by the annuitant.
2. Did the annuitant work for a non-railroad employer or in self-employment?
- No further action is needed with regards to non-railroad earnings if the annuitant answered “no”, or if earnings average is less than \$850 per month, or if a review of OLDDS, Imaging or USTAR show that earnings have been reconciled and there is no remaining overpayment. (Refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits).
 - If the annuitant is an employee and is currently working and earning more than \$850 per month and still in pay status, suspend the annuity and release a letter to the annuitant advising of the suspension.
 - Check wage and earnings reports on EDMA and WORKLIST for inconsistencies with the information provided by the annuitant.
3. Has the annuitant discussed his ability to work with his doctor?
- No further action is needed with regard to medical issues if the annuitant answered this question “No discussion” or “Cannot work”.
 - Further investigation may be needed if the doctor said the annuitant can work, especially if work was reported in Questions 1 and/or 2.
4. The annuitant’s description of his health
- No further action is needed with regard to medical issues if the annuitant answered this question “Same” or “worse.”
 - Further investigation is warranted if the annuitant indicates that his or her health is “BETTER”.

The following paragraphs summarize the appropriate examiner action based on the responses given in the G-254a:

- Continue the disability without further investigation if the annuitant answered Questions 1 and 2 “No”, and Question 3 is answered “Cannot Work” or “No discussion”, and Question 4 is “Same” or “Worse”. Delete the MIP diary and, if applicable, enter a new diary. When entering a new diary, include clear, understandable remarks concerning the results of the G-254a mailer in the Remarks section of the new diary.
- Obtain the folder to consider a medical CDR if work reported in Questions 1 or 2 has not been reconciled or already considered (or you cannot tell if it has been reconciled or already considered), if the answer to Question 3 is “Can Work” or Question 4 is “Better”.

- Consider a field assignment about a specific fact prior to opening a full CDR investigation if information is needed to clarify an answer given about work or medical condition.

8.5.11 Considering Additional Information on Form G-254a

If you have determined that it is necessary to obtain the folder, then consider additional information concerning questions 1 and 2 as follows.

1. Did the annuitant work for railroad? If yes:
 - Check to see if the annuitant is receiving an occupational disability annuity. What was the annuitant's regular railroad occupation? Does the work seem consistent with the annuitant's rating? Is the work less physically demanding than his or her railroad job?
 - If the annuitant is not working currently, check to be sure that previous work was prior to the annuity beginning date, or that the annuity was suspended for months in which the annuitant worked. If not, be sure action was taken in accordance with DCM 10.1.5.
2. Did the annuitant work for a non-railroad employer or in self-employment? If yes and the annuitant is not currently working but previously had wages exceeding an average of \$850 per month, check to be sure action was taken in accordance with DCM 10.1.5 and 10.1.6. (Refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits).

8.5.12 Tracing Form G-254, Continuing Disability Report

The disability examiner will trace for the Form G-254 45 days after the initial request is made. The disability examiner will trace by email. A second tracer should be made, 15 days after the 1st tracer, by phone. If the Form G-254 and medical evidence is still not received within 15 days of the 2nd tracer, refer the folder to your DBD supervisor or lead.

Good judgment should be used when submitting a folder to the DSUBD supervisor or lead. If there is a good reason that justifies why the medical evidence is delayed, the disability examiner should allow a reasonable amount of time for tracing for the evidence.

8.5.13 Evaluating Form G-254, Continuing Disability Report

To determine whether a person's work activity constitutes SGA, detailed information concerning the work must be obtained. Form G-254 is designated for this purpose. In addition, the G-254 furnishes information about current medical treatment and sources of care. If needed, the field office will obtain detailed current medical information. When the work activity involves special circumstances, or if information in the file or on the G-

254 gives reason to believe that the evidence obtained does not give a complete or true picture of the nature and extent of a person's work, additional development or corroboration evidence may be required.

8.5.14 Using Form G-252, Self-Employment/Corporate Officer Work and Earnings Monitoring

Sometimes it is difficult to determine if an annuitant has countable earnings, self-employment, or is working for a corporation. Annuitants complete Form AA-4, Self-Employment and Substantial Service Questionnaire, to provide information concerning their self-employment. After receipt and review of Forms AA-4 and G-254, it may be necessary to secure additional information about an annuitant's self-employment or work as a corporate officer. Form G-252, Self-Employment/Corporate Officer Work and Earnings Monitoring, is designated for this purpose.

Disability examiners should use Form G-252 to obtain additional information, if information from the annuitant's AA-4 and G-254 is not sufficient to make a decision.

Some annuitant's will self report or have earnings reported under their record for services they perform in self-employment. In some instances, the reported or estimated earnings are not the true earnings for the services being performed. Disability examiners should investigate any instances where a question arises concerning earnings generated from claims of self-employment. It is recommended that disability examiners release Form G-252 whenever they question the validity of an annuitant's self-employment claims after reviewing the annuitant's AA-4 and G-254. In addition, this form should be released if information cannot be determined from the AA-4 and G-254 whenever the annuitant is claiming to be a corporate officer:

- Of their own or family-owned/controlled or close friend/associate-owned corporation or business; or
- if the annuitant is related (by blood or marriage) to a corporate officer of a family-owned or family-controlled corporation or business; or
- if the annuitant works for or receives remuneration from a close friend/associate-owned corporation or business.

An RL-252 RRAILS letter accompanies the G-252. The RL-252 letter provides general information and instructions for the annuitant to complete G-252 (e.g. annuitants should return G-252 within 30 days of receipt). In addition, the RL-252 advises the annuitant that the RRB may request tax documentation (i.e., tax returns, corporate tax returns, corporate minutes and resolutions, a bill of sale, Limited Liability Corporation (LLC) contract, articles of organization, transfer documents, etc.) at a later date to substantiate annuitant's statements on the G-252.

The disability examiner will send the RL-252/G-252 package and a return envelope to the annuitant. The disability examiner will also send an email to annuitant's field office

informing them that a RL-252/G-252 package was mailed to the annuitant and that the annuitant may contact the field office for assistance. The RL-252 is to be imaged and a copy of the RL-252 is to be filed on the right side of the folder. It is not necessary for the G-252 to be imaged.

8.5.14.1 Steps to Determine When G-252 Is Released

If self-employment and/or corporate officer information cannot be determined from the annuitant's AA-4 and G-254, the disability examiner should consider releasing a Form G-252 to the annuitant. In order to help determine whether the disability examiner should release a Form G-252, the following sequence of questions should be posed. The examiner should answer all questions until the examiner reaches a step where either the G-252 is required or not required. When the examiner reaches a step where the G-252 is required or not required, the examiner does not need to continue with the questions. If the examiner answers all questions and the end result is that a G-252 is not required, then the examiner can notate that a G-252 is not needed.

1. Is/was the annuitant in a position to control directly or indirectly reported earnings; i.e., is/was the annuitant:
 - Self-employed, particularly as the sole owner of a business,
 - A corporate officer (or a person related to a corporate officer) of a close friend/associate corporation or family corporation,
 - Not in either of the above categories but credible evidence indicates that the annuitant is in a position of some influence or control while continuing to work?

Examples of the latter might be:

- A former corporate officer;
 - A person essential to the operation of the business; e.g., a mechanic (shareholder) in an automotive repair business (garage); or
 - An annuitant who sold the business to a close friend or relative.
- a) If the answer to any of the above questions is Yes, go to Step 2.
 - b) If No, there is no need to release Form G-252 for the tax year (TY) in question nor to continue with the following questions.
2. Is/was the annuitant alleging to be retired and/or claiming reduced services and earnings in the TY in question?
 - If Yes, go to Step 3.

- If No, go to Step 4.
3. Is/was the annuitant's explanation, regarding reduced services and earnings (See DCM 8.5.14.3) for the TY in question supported by current credible evidence without further development?
 - If Yes, do not develop Form G-252 for the TY in question nor continue with the following questions.
 - If No, go to Step 4.
 4. Does the earnings record being used show questionable earnings to the annuitant in a TY before the TY under consideration (e.g., a sudden change in earnings from the previous TY or earnings from an unknown source)?
 - If Yes, develop using Form G-252. Do not continue with the following questions.
 - If No, go to Step 5.
 5. Will the alleged or reported earnings for the TY under consideration preclude payment of all benefits in that TY?
 - If Yes, take necessary steps to suspend annuity and develop Form G-252 for the TY in question. Refer to DCM 8.5.14.4. Do not continue with the following questions.
 - If No, go to Step 6.
 6. Is/was there a significant decline in earnings in the TY under consideration from the preceding TY? (Examiners should use their own judgment as to whether the decline in earnings is considered significant. A significant decline in earnings could be considered as any decrease 50 % or more from the previous year's earnings. For example, the earnings for TY in question are \$30,000 while previous tax year earnings were \$75,000 there is a decrease of \$45,000 or 60%, which would be considered a significant decline.)
 - If Yes, go to Step 7.
 - If No, go to Step 8.
 7. Is/was the annuitant's explanation in file for the decline reasonable and adequately supported by current, credible evidence, based on all the facts of the case. .
 - If Yes, go to Step 8.
 - If No, develop Form G-252 for the TY in question. Do not continue with the following questions.

8. Is/was there an expected decline (regardless if significant or non-significant) in the estimated earnings for the next year?
 - If Yes, go to Step 9.
 - If No, do not develop Form G-252 at this time for the current TY nor continue with the following questions;
9. Is/was the annuitant's explanation for the decline in earnings for the next TY reasonable and, based on all the facts, adequately supported by current, credible evidence? .
 - If Yes, do not develop Form G-252 for either TY.
 - If No, develop Form G-252 for the TY in question.

8.5.14.2 Release and Tracing on Form G-252

Examiners are responsible for releasing Forms RL-252 and Form G-252 to the annuitant. These forms can be accessed through RRAILS and completed in the usual manner. The RL-252 is to be imaged.

A. Initial Handling

The initial examiner will trace by email to the field office for the Form G-252 30 days after the release of the form. If the completed form is still not received within 14 days of the tracer, the disability examiner will contact the field via email or phone to find out if more time is needed to obtain the G-252 and will pend accordingly. If the field indicates that they are unable to contact the annuitant, the initial disability examiner will have the field office release a letter to the last address for the annuitant on file that explains that if the requested information is not received within 15 days from the date of the letter, the case will be rated based on the information that is in file.

B Post/CDR Handling

The Post/CDR examiner will trace by email to the field office for the Form G-252 30 days after the release of the form. If the completed form is still not received within 14 days of the tracer, the disability examiner will contact the field via email or phone to find out if more time is needed to obtain the G-252 and pend accordingly. If the field indicates that they were unable to contact the annuitant, the disability examiner will send the annuitant a letter advising that benefits will be suspended in 30 days unless the annuitant contacts the field office and returns the completed G-252. If the field indicates that the annuitant is uncooperative, take appropriate suspension action. When suspending the annuity, notify the annuitant that we are suspending the annuity based on the evidence being non-sufficient to support the annuitant's claims. Remember that the annuitant should be given due process when you are suspending the annuity. Refer to DCM 8.5.14.4, Suspending Annuity Payments.

8.5.14.3 Explaining Reduced Services or Change in Earnings

There can be a claim of reduced services, a change in earnings (increase or decrease) or there can be no change in earnings for the annuitant. The disability examiner will need to determine if the evidence supports the annuitant's claims on the G-252.

Allegations Supported by the Evidence

- A satisfactory and credible explanation may be evident from the information on the applicant's AA-4 and/or G-254 and thus no further development or documentation is needed.
- Other development action is undertaken and it supports the annuitant's allegations, additional documentation is not required if there are no unresolved issues.

For example, an annuitant claims to own a business in which he works alone mowing lawns and shoveling snow. He had earnings of \$30,000 a year for 2004 and 2005. In 2006 he claims that he mowed lawns and shoveled snow but only has earnings of \$5,000, due to sickness. The disability examiner asks the annuitant for additional information regarding the sickness. Upon development the annuitant sends in evidence that shows he has cancer and underwent extensive radiation and chemotherapy that limited the time he spent on working in his business mowing lawns.

When the evidence supports annuitant's explanations, statements, and/or allegations, the evidence is considered sufficient. Therefore, the disability examiner should continue processing the initial application or with the CDR.

A. Allegations not Supported by the Evidence

- When the annuitant, is unable to (or is uncooperative or unwilling to) obtain sufficient credible evidence to support the earnings allegations shown on any forms , or
- The evidence establishes that the annuitant understated past, current or future year earnings and/or redirected or concealed income to obtain benefits.

For example using the example above (see A), although the annuitant claims sickness reduced his earnings he refuses to provide any additional evidence that would document his sickness.

When the evidence does not support the annuitant's explanations, statements, and/or allegations; and all efforts are exhausted in obtaining the necessary information, the evidence is not considered sufficient and all available information indicates that the annuitant is not retired and is rendering services in employment or self-employment worth more than the applicable exempt amount, the disability examiner should deny the initial application or suspend the annuity (CDR/Post cases). Refer to DCM 8.5.14.4, Suspending Annuity Payments..

8.5.14.4 Suspending Annuity Payments

In CDR/Post cases, we will suspend an annuity if the evidence shown on AA-4, G-254, and/or G-252 is not sufficient to support the annuitant's claims.

When suspending the annuity, notify the annuitant that we are suspending the annuity based on information that the annuitant has earnings and/or has not retired and/or recovered from a disability. Remember that the annuitant should be given due process when you are suspending the annuity.

Suspension of the annuity can be processed if after development it is determined:

- a. There is enough credible evidence to convincingly establish that the annuitant alleging retirement has not retired (i.e., continued working or rendering services); and/or
- b. That earnings and/or remuneration for services in employment or self-employment is being received under another label (e.g., rent, dividends, by another family member, etc.) or is hidden and not being reported and is high enough to preclude the payment of some or all benefits; and/or
- c. The annuitant may have recovered from their disability; and/or
- d. There is insufficient evidence obtainable from cooperating sources to satisfactorily support the annuitant's allegations. (The legally mandated presumption that the annuitant is rendering services in employment or self-employment worth more than the applicable exempt amount which would preclude the payment of some or all of the annuity is not rebutted.); and
- e. The insufficiency of the evidence is the result of one or more of the following conditions and is not due to a failure by the disability examiner to pursue development leads:
 - o The annuitant, or any source having possession of or access to requested corroborative evidence, refuses to cooperate and the needed evidence is not reasonably obtainable elsewhere; or
 - o The submitted evidence is clearly not credible and the disability examiner has exhausted all other leads to obtain credible corroborating or rebutting evidence.

NOTE: Mere unsupported suspicion is not evidence. It is not an adequate basis for suspending the annuity.

If the annuity is suspended, there may be a possibility of fraud. Refer to DCM 8.8, Fraud Possibly Involved, concerning the possibility of fraud and when to send cases to the Office of Inspector General (OIG).

8.5.14.5 Evaluation of Completed Form G-252, Self-Employment /Corporate Officer Work and Earnings Monitoring

Upon the receipt of a completed Form G-252, disability claims examiners need to review the G-252 to determine what impact the information will have on the disability application/annuity and to determine if the evidence supports the annuitant's claims. For more information on G-252, refer to the G-252 in DCM 11, DPS Forms Instructions.

- Section 1 - Instructions. This section is self-explanatory.
- Section 2 – Identifying Information. Items 1-6 are self-explanatory and are used for information purposes.
- Section 3 – Your Work and Earnings. Items 7-10 – the annuitant will supply a brief description of his/her business along with the form of business.
- Items 11-12 – For 11a and 11b, the annuitant will enter the monthly breakdown of the amount of time spent in employment. If the amount of time varies, the annuitant should provide an explanation in Section 7 – Remarks and/or on a separate sheet of paper. For 12a and 12b, the annuitant will enter the monthly breakdown of the net earnings made in employment.
- Section 4 – Self-Employment. Items 13-23: The annuitant completes these items to provide more in-depth information pertaining to their work performed as self-employment. Disability examiners should look for any inconsistencies or contradictions in these statements and other documentation in the folder.
- Section 5 – Incorporated Business. Items 24-30: The annuitant completes these items to provide details on information related to the incorporation of the business. Disability examiners should determine the annuitant's role in the business.
- Section 6 – Ownership of Business. Items 31-37: The annuitant completes these items to provide information regarding the ownership of the business. Disability examiners should look for any changes that occurred during the time period in question.
- Section 7 - Remarks: The annuitant provides any additional information. If the annuitant needs more space, then the annuitant can attach a separate sheet(s) of paper to the G-252.
- Section 8 - Certification: The annuitant should read and understand the certification. The annuitant will then sign (annuitant's signature) and date the G-252. The Disability examiner should check to see that the annuitant signed and dated the G-252.

8.5.14.6 Actions to Obtain Additional Evidence and Identify Discrepancies, Inconsistencies, and Changes on G-252

Upon review of the completed G-252, the disability examiner may determine that the entries made on the G-252 are questionable or lack sufficient evidence needed to support the statements shown on the form. It is up to the disability examiner to decide whether they need the annuitant to submit any tax documentation (i.e., tax returns, tax statements, etc.) and/or any other business documents (i.e., corporate minutes, bill of sale, LLC contract, transfer documents, etc) to substantiate statements reported on the G-252. (This is in accordance with the RL-252 letter advising annuitants that the RRB may request tax documentation and/or other business documents to substantiate annuitants' statements).

The disability examiners should pay special attention to Sections 3 through 6 of the completed G-252:

- Section 3 – Your Work and Earnings. Items 7-10 – the annuitant will supply a brief description of his/her business along with the form of business. Disability examiners should review these items to insure that it is not contradictory.

Items 11-12 – The disability claims examiner will need to enter the year(s) being requested. Box items are shown for two years worth of information. In some cases it may be necessary to get more than two years of information. Disability examiners may find it necessary to request information from as far back as the annuitant's ABD. In any case, if there are three or more years needed, the annuitant can enter those years in Section 7 – Remarks and/or on a separate sheet of paper. For 11a and 11b, the annuitant will enter the monthly breakdown of the amount of time spent in employment. If the amount of time varies, the annuitant should provide an explanation in Section 7 – Remarks and/or on a separate sheet of paper. For 12a and 12b, the annuitant will enter the monthly breakdown of the net earnings made in employment. Disability examiners should check to see that the monthly earnings are not over the earnings limit and should check to see if there is any earnings pattern (i.e., seasonal employment). In addition, disability examiners should compare the earnings and hours (annual and monthly breakdown) of the tax year(s) in question on the G-252 to the earnings and hours for the same tax year(s) on Forms G-254 and/or AA-4 (if any). Information should be consistent for the same tax year(s) on all forms (G-252, G-254, and/or AA-4). If information is different, disability examiners should determine why the information for the same tax year(s) is different on different forms (e.g., forms were not completed at the same time so information on the latest dated form is more current and/or accurate). Refer to DCM 8.5.14.3.

- Section 4 – Self-Employment. Items 13-23: The annuitant completes these items to provide more in-depth information pertaining to their work performed as self-employment. Disability examiners should look for any inconsistencies or contradictions in these statements and other documentation in the folder.

- Section 5 – Incorporated Business. Items 24-30: The annuitant completes these items to provide details on information related to the incorporation of the business. Disability examiners should determine the annuitant’s role in the business.
- Section 6 – Ownership of Business. Items 31-37: The annuitant completes these items to provide information regarding the ownership of the business. Disability examiners should look for any changes that occurred during the time period in question.

A list of tax related IRS forms or documents to validate earnings are shown below to help disability examiners determine what additional items of evidence may be needed. These IRS forms can be obtained by accessing the IRS website ([.irs.](https://www.irs.gov)) and printing the necessary forms. Disability examiners can request annuitants to submit one or more of the following (be sure to include in any requests that all supporting schedules that were submitted to the tax form are included):

1. **Form 1120 (U.S. Corporation Income Tax Return)** - Used by large corporations to report profit and loss.
2. **Form 1120 S (U.S. Income Tax Return for an S Corporation)** - Same as form 1120, but for Subchapter “S” corporations only.
3. **Form 1040 (U.S. Individual Income Tax Return)**- Used by anyone who has gross income over an allowable limit must file this form.
4. **Form 1065 (U.S. Partnership Return of Income)** - Used by the partnership to report income and deductions. Of the various schedules on this form (for 1995, schedules A,B,K,L,M-1, and M-2), the one most likely to be a factor in a questionable case is Schedule K1 (Partners' Shares of Income, Credits, Deductions, etc.).
5. **Schedule K1 (Form 1065)(Partner's Share of Income, Credits, Deductions, etc.)** - Used by a member of a partnership, joint venture, or a shareholder in a Subchapter “S” corporation to recapitulate the income or loss allotted by the business to that individual. This amount is then shown on that individual's Schedule E, Supplemental Income and Loss. This form is not filed with the tax return because the business enterprise has filed an informational return showing the amount allotted to each member. (See the discussion of Form 1065 (U.S. Partnership Return of Income) below re tax treatment of the above income.)
6. **Form W-2, Wage and Tax Statement** –Used by taxpayers to report financial information to the IRS.
7. **Form 1099, Miscellaneous Income** – Used by individuals to report non-employee income

It is also important to remember that for any form that is identified as a “schedule” that form can be attached to some of the other tax forms. In addition to the schedule K1 mentioned above, some other schedule forms may include:

1. **Schedule A (Itemized Deductions)** - Used for itemizing allowable deductions.
2. **Schedule B (Interest and Dividends)** - Used to report interest and dividend income, including corporate stock dividends.
3. **Schedule C (Profit or Loss From Business)** - Used in sole proprietor cases to report profits or losses (but not used by partnerships, joint ventures, etc.). Expense items such as rents or leases on property, vehicles, machinery, and other equipment; employee benefit programs; pension and profit-sharing plans; and travel, meals, and entertainment, sometimes need to be especially scrutinized.
4. **Schedule D (Capital Gains and Losses)** - Used to report both short-term and long-term capital gains and losses from partnerships, Subchapter “S” corporations, and fiduciaries.
5. **Schedule E (Supplemental Income and Losses)** - Used to report supplemental income and loss including rental and royalty income, and income and loss from partnerships and Subchapter “S” corporations.
6. **Schedule F (Farm Income and Expenses)** - Used to report income and expenses from a farm operation. A careful analysis of this form may help determine the credibility of the farm owner's allegation that the farm is rented to others and; thus, there is no “material participation.”
7. **Schedule SE (Self-Employment Tax)** - Used by the self-employed and certain church employees to compute their net earnings (or loss) from SE for Social Security SE tax purposes.

While each case is different and must be handled on its own merit, it is important to examine the above forms to try and identify possible conflicts. For example:

A. Examining Corporate Officer Tax Returns

Examine corporate officer or partner tax return to help identify such items as wages, time devoted to business, stock ownership, profit distribution, dividends, etc.

B. Compare With Prior Year Tax Return

Make a comparison of returns for prior years with current allegations or tax returns, when available.

C. Consider Changes Affecting Family Members

Consider any changes affecting close family members identified on the corporate, partnership or the annuitant's tax returns.

D. Consider Recent Rate and Amount Changes

Give special attention to recent changes in rents, dividends, loans, salary, etc.

E. Questioning Significant Changes

Question significant changes in the items listed above to ensure that they do not actually represent remuneration to the annuitant for services rendered.

8.5.14.7 Potential Fraud Based on Review of G-252

In CDR/Post cases, if the disability examiner determines that the annuitant's annuity should be suspended and that the evidence gathered is either insufficient or questionable, based on the review of the completed G-252 and all other disability examiner work is completed, then the disability examiner may determine that potential fraud is involved. Refer to DCM 8.5.14.4, Suspending Annuity Payments, and DCM 8.8, Fraud Possibly Involved, concerning when to send cases to the Office of Inspector General (OIG). The disability examiner and/or their supervisor or section chief may forward any additional items of documentation or evidence (i.e., tax returns, tax statements, bill of sale, LLC contracts, etc.) that the examiner collected from the annuitant to the OIG.

8.6 Annual Reminder Notices

8.6.1 Forms RL-4/RL-5 Notices

As part of the disability benefit monitoring program, each year Forms RL-4 and RL-5, Disability Reminder Notices, are sent to retirement and survivor disabled annuitants respectively. Annuitants are reminded of events such as improved physical condition, return to work, receipt or change in public service pension amount and felony conviction which could affect their entitlement. The Railroad Retirement Board (RRB) field office address and telephone number is printed on the notice for the convenience of the annuitant. He or she is asked to contact that office to report any events which could affect entitlement to their disability annuity.

8.6.2 Forms RL-7 Notice

Each year the RRB releases the Form RL-7 *Disability Reminder Notice – Disabled Annuitant Under Earnings Limit* to disabled employee annuitants under full retirement age (FRA) who have earnings under the allowable limits. This notice reminds these individuals of their responsibility to report earnings for any month in which they exceed the monthly earnings limit or if their total earnings exceed the annual earnings limit. Forms RL-7 are sent to imaging when released.

8.8 Fraud Possibly Involved

8.8.1 General Provisions

The Railroad Retirement Act (RR Act) provides penalties for any person who knowingly makes, submits, or presents or causes to be made, submitted, or presented any false, fictitious or fraudulent claim or written statement for the purpose of causing a disability award or payment under the Act. The complete requirements for administrative remedies for fraudulent claims or statements can be found in 20 Code of Federal Regulations (CFR) Chapter 11, Subchapter E, Part 355.

Prosecution for fraud is a criminal action and is punitive in purpose. Occasionally, a prosecution for fraud results in restitution. This may occur when the court suspends sentence upon condition that the erroneous payment is repaid.

The filing of a criminal action does not preclude the filing of a civil action to obtain a judgment against a debtor. A debtor may be subject to both actions.

We do not request a refund in any case in which fraud may be involved.

8.8.2 Elements Of Fraud

The elements of fraud are defined as follows:

- That the person made or aided in making a statement or claim or caused a statement or claim to be made;
- That the statement or claim was false;
- That the person knew the statement to be false when it was made or made it recklessly without any knowledge of its truth; and
- That the person made the statement or claim with the intention that a claim would be paid.

Below are best practices for examining disability claims to help detect and effectively prevent fraud. This information was compiled from the Case Review of Long Island Rail Road Disability claims report prepared by Program Evaluation and Management Services. To read more about the case review, please visit Boardwalk and click on the associated link: <://share/common/DP/PEMS/PES-UI%20SI%20DIS%20FLD/Boardwalk%20main%20page.>

Best Practices for examining disability claims to consider:

- **Template “Cookie Cutter” Applications** – Template or ‘cookie cutter’ applications and job descriptions which are usually typed. In addition, technical medical terms will be used such as spondylosis, radiculopathy and other

common medical abbreviations like HNP. Also, job descriptions will be unusually consistent and describe impacts that line up with the exertional, postural and environmental restrictions that are provided in a residual functional capacity assessment. Typically applicants will complete this item in a very general way by stating they can no longer do their job, had shorter hours, needed assistance with tasks, etc. For example: My chronic neck, back and right hand pain, along with the right knee problem, made it impossible for me to perform my duties as a railroad conductor. I am unable to work on moving trains, climb cars, crouch and lift heavy air hoses, jumper cables, couplers, etc. My disabilities became so severe, I could no longer perform my job as effective this date.

- **Stand-Alone Medical Evidence** - Frequent receipt of stand-alone medical evidence which indicates that no other doctors treated the claimant and the medical evidence includes physical findings, x-rays, EMG and other ancillary testing.
- **Use of Facilitator or Lawyer** - applicant's use of facilitators or lawyers in the completion of applications. This may involve a fee paid by the applicant to the facilitator or lawyer.
- **Data Patterns** - Data patterns showing age, disabling condition, and freeze grant rates that are noticeably different than the rail industry as a whole.

In an effort to control, prevent and deter fraud if you notice any suspicious patterns or inconsistencies with medical evidence that could not be resolved (refer to DCM 4.11.1 or DCM 4.11.4) while examining disability claims, notify your director, supervisor or lead as soon as possible. The management official will take action to notify the Office of Inspector General to investigate claim for possible fraud.

8.8.3 Investigation And Source Of Evidence

Once the question of fraud has been noted during the review of a benefit monitoring case, prepare a brief memorandum summarizing the situation and why you believe that fraud may be involved. Submit the case to your section chief, who will then forward the folder to the Office of Inspector General (OIG).

If the facts in the case justify a referral, the section chief prepares a copy of the OIG Referral Sheet (See Appendix F for details) and arranges to forward the case to the OIG. The OIG Referral Sheet was designed so that specific information could be captured and retained by DSUBD. It also documents the referral and helps to establish an audit trail for future tracking and reporting on the results of OIG investigation.

It is important to remember that a person who commits a fraudulent act cannot be prosecuted unless action is instituted within five years after the offense is committed. The time limitation on fraud prosecution makes early investigation and recommendations extremely significant.

The actual investigation of fraud is the responsibility of the OIG.

8.9 Office Of Inspector General (OIG) Coordination Of Benefit Monitoring Activities

8.9.1 Benefit Monitoring Case Referred To OIG

If a case shows that fraud may possibly be involved, the case is to be referred to your section chief after a memorandum is prepared detailing the situation and why you believe that fraud may be involved.

If the facts in the case justify a referral, the section chief prepares a copy of the OIG Referral Sheet (See Appendix F for details) and arranges to forward the case to the OIG. The OIG Referral Sheet was designed so that specific information could be captured and retained by DSUBD. It also documents the referral and helps to establish an audit trail for future tracking and reporting on the results of OIG investigation.

8.9.2 OIG Returns The Case After Investigation Is Completed

Once the OIG completes the investigation, they will return the case to DSUBD for further adjudicative handling. All pertinent case data will be recorded on the OIG Referral Sheet. The data recorded will show if the disabled annuitant was prosecuted or convicted for fraud if there was any amount to be recovered or if the fraud investigation was not warranted due to the OIG's assessment and determination.

The section chief is responsible to maintain record data for every referral from DSUBD to OIG. Upon completing all record keeping tasks, the case will be returned back to the disability post examiner. On the route slip, Form G-26, the section chief will show in remarks what action is to be taken on the benefit monitoring case resulting from OIG investigation.

When the folder is received in the disability post section, the disability post examiner will take appropriate actions whether further development is required, or whether a continuance/termination decision is to be made or whether overpayment recovery is needed.

As usual, Form G-325a (Appendix G) is completed for all continuance decisions. If you determine that disability cessation is warranted based on OIG's investigation, take appropriate action. If the OIG advised that an overpayment amount has to be recovered, take the necessary G-325a and termination (Fast Transaction) actions. The OIG cannot suspend or terminate any annuity payments. The operational bureaus are responsible for suspension/termination actions.

Upon receipt of the case, the section chief will verify if the termination action has been taken to assure that the next check will not be sent. The case will then be referred to the appropriate adjudicative unit Retirement Post Section (RPS), Survivor Post Section

(SPS) or Overpayment, Penalty and Recovery Section (OPR) for proper recovery action.

8.9.3 Annuity Suspension Request From The OIG

The OIG may refer a case to Disability Post Section requesting that an annuity be suspended due to earnings.

When suspending these cases, notify the annuitant that we are suspending the annuity based on information from the OIG that the annuitant has earnings over \$850 per month. (Refer to the chart in FOM 1125.5.2 for the monthly and annual earnings limits).

Also, remember that the annuitant should be given due process when you are suspending the annuity.

OIG Referral Sheet

(Original Only)

Use

Used to record appropriate information about fraud cases referred to the Office of Inspector General (OIG) and the results of the OIG's investigation.

Completion

Items 1 through 5 are required entries for each case before referral to the OIG. Items 6 through 15 are completed appropriately based on the results of OIG's investigation. The form is completed as follows:

Item No.	Entry
1	CLAIM NUMBER - Enter claim prefix and RRB claim number in this item.
2	DATE REFERRED TO SECTION CHIEF - Enter the date that unit referred case to section chief
3	REFERRED BY - Enter the referring source, e.g., Post and CDR unit.
4	DATE RELEASED TO OIG PER THEIR REQUEST - Enter the date case is actually referred to the OIG for an investigation.
5	TYPE OF ISSUE - Record any specific information that shows the fraud issue, e.g., annuitant has SGA earnings for past 2 years and has not notified the RRB about those earnings.

6	DATE RECEIVED BACK FROM OIG - Enter the date that case is received back in DSUBD from the OIG.
7	O/P AMOUNT - Record the overpayment amount identified by the OIG.
8	PROSECUTION (YES/NO) - Enter yes or no if a prosecution action has been taken.
9	CONVICTION (YES/NO) - Enter yes or no if a conviction has been made by the court.
10	AMOUNT RECOVERED - Enter any amount of overpayment recovered.
11	AMOUNT SET-UP FOR RECOVERY - Enter the actual overpayment amount set-up for recovery.
12	RECOVERY METHOD - Enter the recovery method that has been cited by the OIG in their write-up.
13	AMOUNT UNCOLLECTED - Enter the overpayment amount that remains uncollected after actions taken by Courts or OIG.
14	RECOVERY ADJUDICATIVE UNIT - Enter the appropriate adjudicative unit, e.g., retirement post section (RPS), survivor post section (SPS) or overpayment penalty recovery section (OPR) that has the responsibility to take recovery action.
15	DATE RELEASED TO RECOVERY ADJUDICATIVE UNIT FOR HANDLING - Enter the date that case is released to adjudicative unit for recovery handling.

Disposition

A copy of this form is maintained by the section chief. It will be used for tracking and reporting of information to the Director of DSUBD and program integrity assignments.

8.10 Use of Subpoena

8.10.1 Introduction

The Railroad Retirement Board's authority for requesting information from railroad and non-railroad employers is contained in provisions of the Railroad Retirement Act. Although the Act gives the RRB the authority to compel disclosure through use of a subpoena, experience has shown that most employers voluntarily provide information when they know that the RRB uses that information only for the purpose of verifying claims for benefits. Employment information is secured from a claimant's employer. If

routine follow-up efforts fail to obtain information requested from an employer, the information may be obtained through issuance of a subpoena.

8.10.2 Requesting and Issuing Subpoena

A DBD supervisor should submit a GL-219 requesting a subpoena to the Office of the General Counsel (OGC). The claimant's name and social security number, the employer's name and address, and the type of information needed should be included in the GL-219. OGC will reply by forwarding to DBD a memorandum accompanied by the subpoena and a return of service document. If a subpoena has not been received from OGC within 60 days of the date of the request, DBD should trace the status of the request.

DBD should address the subpoena to a particular individual, such as an official of the company, if possible. If the name of a person to serve cannot be determined, DBD should address the subpoena to "Keeper of Records". Enter the necessary information on the subpoena and make a copy for the claimant's file.

8.10.3 DBD Responsibility

DBD should send the subpoena via regular mail to the field office that services the area where the company is located. The field office can deliver the subpoena either in person or by certified mail with a return receipt requested. The return of service document is to be completed by the contact representative handling the subpoena and is to be filed in the applicant's file. DBD should normally allow 60 days for the field office to obtain and forward the requested information. The field office will retain the return of service document until the information sought by the subpoena is obtained, at which point the return of service document may be discarded.

8.10.4 Non-Compliance to the Subpoena

If the employer does not respond to the subpoena, or refuses to cooperate with the subpoena, the field office will notify DBD and send the evidence of receipt of the subpoena to DBD. That evidence will be the return of service document if the subpoena is delivered in person or the return receipt furnished by the Postal Service if it was delivered by certified mail. DBD should submit a written request for assistance to Office of General Counsel (OGC) with a copy of the subpoena and evidence of receipt of the subpoena by the employer. Evidence of receipt would be the return of service document or the certified return receipt from the Postal Service. If there is no receipt of the subpoena due to the employer's lack of cooperation it is to be noted in the written request. Upon receipt of the written request, OGC will notify the employer by letter that the RRB is considering a court proceeding against the company. A copy of the letter will be provided to DBD. If DBD does not receive a copy of the letter within 30 days after the request, they will call OGC to obtain status information. Similarly, if DBD does not receive information from OGC within 45 days after the letter is mailed to the employer, call the DBD attorney adviser to discuss the status and disposition of the case.

