

JAMES B. COON  
CHRISTINE C. FROST  
MELISSA M. HAGGERTY  
SYDNEY A. MONTANARD  
CYNTHIA F. NEWTON\*  
SCOTT A. BELL  
RAYMOND F. THOMAS



**THOMAS, COON,  
NEWTON & FROST**  
PORTLAND LAW FIRM SINCE 1980

**STAFF**  
REBECCA CASSADY  
ERIN DANIELS  
DIANE FULTON  
KIMBERLY HOLDCOMB  
HANNAH JACOBBER  
TASHA JENNINGS  
KRISTIN KIDD  
AARON MCCURRIE  
BACH-VIET NGUYEN  
SUSAN PARKS  
KAYLA SMITH  
HOLLY THOMPSON  
AMANDA ULRICH  
BEN WILLS

\*ADMITTED IN OR, CA, AND WA  
MICHAEL D. ROYCE  
(1980-1994)  
DOUGLAS A. SWANSON  
(1980-2004)

**Representatives:**

Thank you for the opportunity to provide testimony regarding Senate Bill 275. I am an attorney who helps disabled people access federal disability benefits. In that capacity, I regularly help my clients invoke the benefits of ORS 192.576. At my firm alone, that statute has helped hundreds of disabled Oregonians of limited financial means access their medical records. Those records are vital to obtaining federal benefits for disabled Oregonians. In turn, those federal funds reduce the burden on state services.

The Senate Committee on Human Services received testimony from a wide swath of people who were helped by this statute. There is testimony in the bill file from a former interim Commissioner of Multnomah County discussing the difference that this statute made in her life. There is also testimony from a former laundry worker with an intellectual disability about the difference that this statute made in her life. Indeed, this bill has helped hundreds, if not thousands, of disabled Oregonians.

As I did when I testified before the Senate Committee on Human Services, I would like to give a brief overview of how the statute works in practice. On the Senate side, the Oregon Medical Association – the chief backers of SB 275—agreed in their oral testimony that this practice is proper under the statute, even as amended.

In my practice, this is the process that I follow when helping a client receive benefits of the statute:

- I Invite the client to complete a statement invoking the statute and requesting that the records be delivered to my office on their behalf
- My office sends that statement along with the appropriate HIPAA compliant releases to the medical records provider
- My office tracks the medical records requested and follows up on aged requests
- My office responds to any invoices received that erroneously state that money is owed on the records
- My office submits the records to the Social Security Administration

The procedure outline above is efficient and effective for both the claimant and the medical records providers.

Your committee is in a position to fix a loophole in SB 275. Presently, the amended draft states that a claimant is entitled to one copy of his or her medical records beginning “after the date of the individual’s initial application for Social Security disability benefits.” While that language covers most records for most claimants, it excludes some records for some claimants.

I ask that you amend the bill to cover records beginning at the claimants "alleged onset date." "Alleged onset date" is a term of art defined in federal law. I have attached a copy of the Social Security Administration's definition of that term to my written testimony. In short, "alleged onset date" is the date on which a claimant alleges that he or she became disabled. It is the dispositive date for a Social Security claimant.

As you may imagine, most people who are seriously injured or who become too sick to work don't apply for benefits on the day that they become disabled. Most people think that they are going to get better and will return to work. By using "initial application date" as the start of the benefit under this statute, SB 275 excludes records generated during that gap from the protection of the statute.

In closing, I thank you on behalf of all the disabled people who this law benefits, and I ask that strengthen the law by closing this loophole.

Respectfully submitted,

**THOMAS, COON, NEWTON & FROST**



Scott Sell  
Attorney

# Social Security

---

## Program Operations Manual System (POMS)

---

TN 11 (11-12)

### DI 25501.210 Alleged Onset Date (AOD)

#### A. Policy for alleged onset date (AOD)

##### 1. Definition of AOD

In title II disability claims and title XVI adult disability claims, the AOD is always the date the claimant alleges he or she became unable to work because of his or her medical condition, whether or not that date appears to be appropriate.

##### 2. AOD is the starting point

The claimant's AOD is the starting point in establishing the established onset date (EOD). If the medical and other evidence, and the entitlement or eligibility factors, are consistent with the AOD, the AOD is also the EOD, the date we establish the claimant first meets the medical, vocational, and other entitlement or eligibility requirements for disability benefits. If there are non-medical factors present that prohibit the disability examiner (DE) from establishing an EOD as of AOD (e.g., work after onset), or could allow the DE to establish an EOD earlier than the AOD, if supported by the medical evidence (e.g. an unsuccessful work attempt), the FO proposes a potential onset date (POD).

For more information about the role of the POD when establishing an EOD, see DI 25501.220A.1.

##### 3. AOD may be the last day of substantial gainful activity (SGA)

We consider the date the claimant stopped performing SGA when establishing the EOD. The fact the claimant performed SGA on the AOD is not relevant. If medical and other evidence indicates the claimant's disability began on the AOD, an EOD can be established on that date even if the claimant worked a full day. We will not establish onset before the last day SGA was performed. For information on closed periods, see DI 25501.210A.4. in this section.

**Exception:** For Disability Insurance Benefit (DIB) claimants who meet our statutory definition of blindness, we establish a disability freeze on the date they meet our statutory definition of blindness, regardless of SGA. For more details on establishing onset of blindness, see DI 25501.380.

##### 4. Closed periods

We establish a closed period of disability in situations where a claimant was unable to engage in SGA for a continuous period of 12 months, but, by the time the determination is made, the claimant is no longer disabled and is engaging in SGA or is capable of engaging in SGA, if the claimant meets all other requirements. The AOD may be prior to a current period of SGA.

For more information on adjudicating closed period determinations, see DI 25510.001 through DI 25510.015.

## **5. Unsuccessful work attempts (UWA)**

Some claimants attempt to work despite their impairment(s) and stop work after a short period because of the impairment(s). Under certain conditions, this effort is a UWA. In such cases, the AOD may be before the UWA because worked determined to be a UWA is not SGA.

For more information, see:

- DI 11010.250 for information on the field office's policy for using work activity reports to annotate UWAs,
- DI 24005.001 for background policy regarding UWAs and
- DI 25501.400 for more detailed policy regarding onset of disability and UWAs.

## **6. Title XVI disabled child (DC) claims**

The AOD for DC claims is the date the applicant provides in answer to the question: "When did the child become disabled?" in section 3C on the SSA-3820 (Disability Report-Child) or i3820 (Internet Child Disability Report). The AOD is the applicant's own perception of when the child's disability began. The applicant always provides the AOD regardless of whether or not that date appears to be appropriate.

## **7. Documentation of the AOD**

The AOD appears on:

- the disability application(Form SSA-16),
- the case data section of an electronic disability folder,
- the Electronic Disability Collect System (EDCS) or SSA-3367 (Disability Report – Field Office), and
- the SSA-3368 (Disability Report – Adult) or i3368 (Internet Adult Disability Report).

Generally, the AOD will be consistent throughout the file. If the AOD is not consistent throughout the file, the Disability Determination Services (DDS) will contact the field office (FO) and request clarification.

The claims representative will provide a POD if there are non-medical factors that prohibit establishing the EOD on the AOD or if non-medical factors permit an earlier EOD. For information on Potential Onset Dates, see DI 25501.220.

**NOTE:** If the AOD differs from the POD, your explanation of the POD is crucial to disability development. For more information on documenting a POD, see DI 25501.220.

## **B. Component roles**

The Teleservice Center, filed office, and DDS staff take the following roles in developing the AOD.

### **1. Teleservice center (TSC)**

The TSC records the claimant's AOD on the Lead Protective Filing 2 (LPF2) screen.

### **2. Field office (FO)**

The FO obtains the AOD from the claimant and establishes a POD, if necessary. The FO also records the claimant's AOD in Modernized Claim System (MCS) and Modernized Supplemental Security Income Claims System (MSSICS).

### **3. DDS**

The DDS develops the claimant's complete medical history for at least the 12 months preceding the month in which the claimant filed his or her application, unless there is a reason to believe that we need to develop for an earlier period, or the claimant states his or her disability began less than 12 months before he or she filed his or her application.

## **C. Component instructions for recording AOD**

### **1. Teleservice center (TSC)**

Record the claimant's AOD on the LPF2 screen.

### **2. Field office (FO)**

Record the claimant's AOD in the MCS or the MSSICS. MCS or MSSICS may contain propagated data from the Integrated Client Data Base (ICDB) from information received from the 800 lead system. You may over-key this data, if necessary.

### **3. Disability Determination Services (DDS)**

Develop the claimant's complete medical history for at least the 12 months preceding the month in which the claimant filed his or her application, unless you have a reason to believe that you need to develop for an earlier period, or, unless the claimant says his or her disability began less than 12 months before he or she filed his or her claim. For information on POD, see DI 25501.220. For more information on developing medical evidence, see DI 22505.001.

**NOTES:**

- In some situations, you may need to develop additional Medical Evidence of Record (MER) prior to the AOD or POD, to document the severity of the claimant's condition or the duration of the claimant's condition.
- In cases where the claimant alleges a traumatic impairment and a fully favorable EOD can be established based on evidence of the claimant's traumatic impairment, you do not need medical evidence 12 months prior to AOD or POD to adjudicate the claim.

---

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0425501210>

DI 25501.210 - Alleged Onset Date (AOD) - 07/10/2013

Batch run: 07/10/2013

Rev:07/10/2013