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Selected Social Security Disability Law

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20 CFR Part 404

Subpart P—Determining Disability and Blindness

§ 404.1513 Medical and other evidence of your impairment(s).

(a) *Sources who can provide evidence to establish an impairment.* We need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). See §404.1508. Acceptable medical sources are—

- (1) Licensed physicians (medical or osteopathic doctors);
- (2) Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning only;
- (3) Licensed optometrists, for purposes of establishing visual disorders only (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only);
- (4) Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle; and
- (5) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only. For this source, “qualified” means that the speech-language pathologist must be licensed by the State professional licensing agency, or be fully certified by the State education agency in the State in which he or she practices, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

(b) *Medical reports.* Medical reports should include—

- (1) Medical history;
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, x-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms);
- (5) Treatment prescribed with response, and prognosis; and
- (6) A statement about what you can still do despite your impairment(s) based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section (except in statutory blindness claims). Although we will request a medical source statement about what you can still do despite your impairment(s), the lack of the medical source statement will not make the report incomplete. See §404.1527.

(c) *Statements about what you can still do.* At the administrative law judge and Appeals Council levels, and at the reviewing official, administrative law judge, and Decision Review Board levels in claims adjudicated under the procedures in part 405 of this chapter, we will consider residual functional capacity assessments made by State agency medical and psychological consultants, medical and psychological experts (as defined in §405.5 of this chapter), and other program physicians and psychologists to be “statements about what you can still do” made by nonexamining physicians and psychologists based on their review of the evidence in the case record. Statements about what you can still do (based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section) should describe, but are not limited to, the kinds of physical and mental capabilities listed as follows (See §§404.1527 and 404.1545(c)):

- (1) The acceptable medical source's opinion about your ability, despite your impairment(s), to do work-related activities such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and

(2) In cases of mental impairment(s), the acceptable medical source's opinion about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures in a work setting.

(d) *Other sources.* In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work. Other sources include, but are not limited to—

(1) Medical sources not listed in paragraph (a) of this section (for example, nurse-practitioners, physicians' assistants, naturopaths, chiropractors, audiologists, and therapists);

(2) Educational personnel (for example, school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers);

(3) Public and private social welfare agency personnel; and

(4) Other non-medical sources (for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy).

(e) *Completeness.* The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in paragraph (a) of this section, information you give us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine—

(1) The nature and severity of your impairment(s) for any period in question;

(2) Whether the duration requirement described in §404.1509 is met; and

(3) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in §404.1520(e) or (f)(1) apply.

Evaluation of Disability

§ 404.1520(b) Evaluation of disability in general.

(b) *Basic work activities.* When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include—

(1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

(2) Capacities for seeing, hearing, and speaking;

(3) Understanding, carrying out, and remembering simple instructions;

(4) Use of judgment;

(5) Responding appropriately to supervision, co-workers and usual work situations; and

(6) Dealing with changes in a routine work setting.

Medical Considerations

§ 404.1525 Listing of Impairments in appendix 1.

§ 404.1527 Evaluating opinion evidence.

§ 404.1528 Symptoms, signs, and laboratory findings.

§ 404.1529 How we evaluate symptoms, including pain.

§ 404.1525 Listing of Impairments in appendix 1.

(a) *What is the purpose of the Listing of Impairments?* The Listing of Impairments (the listings) is in appendix 1 of this subpart. It describes for each of the major body systems impairments that we consider to be severe enough to prevent an individual from doing any gainful activity, regardless of his or her age, education, or work experience.

* * *

(2) The introduction to each body system contains information relevant to the use of the listings in that body system; for example, examples of common impairments in the body system and definitions used in the listings for that body system. We may also include specific criteria for establishing a diagnosis, confirming the existence of an impairment, or establishing that your impairment(s) satisfies the criteria of a particular listing in the body system. Even if we do not include specific criteria for establishing a diagnosis or confirming the existence of your impairment, you must still show that you have a severe medically determinable impairment(s), as defined in §§404.1508 and 404.1520(c).

(3) The specific listings follow the introduction in each body system, after the heading, *Category of Impairments*. Within each listing, we specify the objective medical and other findings needed to satisfy the criteria of that listing. We will find that your impairment(s) meets the requirements of a listing when it satisfies all of the criteria of that listing, including any relevant criteria in the introduction, and meets the duration requirement (see §404.1509).

(4) Most of the listed impairments are permanent or expected to result in death. For some listings, we state a specific period of time for which your impairment(s) will meet the listing. For all others, the evidence must show that your impairment(s) has lasted or can be expected to last for a continuous period of at least 12 months.

(5) If your impairment(s) does not meet the criteria of a listing, it can medically equal the criteria of a listing. We explain our rules for medical equivalence in §404.1526. We use the listings only to find that you are disabled or still disabled. If your impairment(s) does not meet or medically equal the criteria of a listing, we may find that you are disabled or still disabled at a later step in the sequential evaluation process.

(d) *Can your impairment(s) meet a listing based only on a diagnosis?* No. Your impairment(s) cannot meet the criteria of a listing based only on a diagnosis. To meet the requirements of a listing, you must have a medically determinable impairment(s) that satisfies all of the criteria in the listing.

(e) *How do we consider your symptoms when we determine whether your impairment(s) meets a listing?* Some listed impairments include symptoms, such as pain, as criteria. Section 404.1529(d)(2) explains how we consider your symptoms when your symptoms are included as criteria in a listing

§ 404.1527 Evaluating opinion evidence.

(2) Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions.

(b) *How we consider medical opinions.* In deciding whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive.

(c) *Making disability determinations.* After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows.

(1) If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence.

(2) If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have.

(3) If the evidence is consistent but we do not have sufficient evidence to decide whether you are disabled, or if after weighing the evidence we decide we cannot reach a conclusion about whether you are disabled, we will try to obtain additional evidence under the provisions of §§404.1512 and 404.1519 through 404.1519h. We will request additional existing records, recontact your treating sources or any other examining sources, ask you to undergo a consultative examination at our expense, or ask you or others for more information. We will consider any additional evidence we receive together with the evidence we already have.

(4) When there are inconsistencies in the evidence that cannot be resolved, or when despite efforts to obtain additional evidence the evidence is not complete, we will make a determination or decision based on the evidence we have.

(d) *How we weigh medical opinions.* Regardless of its source, we will evaluate every medical opinion we receive. Unless we give a treating source's opinion controlling weight under paragraph (d)(2) of this section, we consider all of the following factors in deciding the weight we give to any medical opinion.

(1) *Examining relationship.* Generally, we give more weight to the opinion of a source who has examined you than to the opinion of a source who has not examined you.

(2) *Treatment relationship.* Generally, we give more weight to opinions from your treating sources, since these sources are likely to be the medical professionals most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations, such as consultative examinations or brief hospitalizations. If we find that a treating source's opinion on the issue(s) of the nature and severity of your impairment(s) is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in your case record, we will give it controlling weight. When we do not give the treating source's opinion controlling weight, we apply the factors listed in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, as well as the factors in paragraphs (d)(3) through (d)(6) of this section in determining the weight to give the opinion. We will always give good reasons in our notice of determination or decision for the weight we give your treating source's opinion.

(i) *Length of the treatment relationship and the frequency of examination.* Generally, the longer a treating source has treated you and the more times you have been seen by a treating source, the more weight we will give to the source's medical opinion. When the treating source has seen you a number of times and long enough to have obtained a longitudinal picture of your impairment, we will give the source's opinion more weight than we would give it if it were from a nontreating source.

(ii) *Nature and extent of the treatment relationship.* Generally, the more knowledge a treating source has about your impairment(s) the more weight we will give to the source's medical opinion. We will look at the treatment the source has provided and at the kinds and extent of examinations and testing the source has performed or ordered from specialists and independent laboratories. For example, if your ophthalmologist notices that you have complained of neck pain during your eye examinations, we will consider his or her opinion with respect to your neck pain, but we will give it less weight than that of another physician who has treated you for the neck pain. When the treating source has reasonable knowledge of your impairment(s), we will give the source's opinion more weight than we would give it if it were from a nontreating source.

(3) *Supportability.* The more a medical source presents relevant evidence to support an opinion, particularly medical signs and laboratory findings, the more weight we will give that opinion. The better an explanation a source provides for an opinion, the more weight we will give that opinion. Furthermore, because nonexamining sources have no examining or treating relationship with you, the weight we will give their opinions will depend on the degree to which they provide supporting explanations for their opinions. We will evaluate the degree to which these opinions consider all of the pertinent evidence in your claim, including opinions of treating and other examining sources.

(4) *Consistency.* Generally, the more consistent an opinion is with the record as a whole, the more weight we will give to that opinion.

(5) *Specialization.* We generally give more weight to the opinion of a specialist about medical issues related to his or her area of specialty than to the opinion of a source who is not a specialist.

(6) *Other factors.* When we consider how much weight to give to a medical opinion, we will also consider any factors you or others bring to our attention, or of which we are aware, which tend to support or contradict the opinion. For example, the amount of understanding of our disability programs and their evidentiary requirements that an acceptable medical source has, regardless of the source of that understanding, and the extent to which an acceptable medical source is familiar with the other information in your case record are relevant factors that we will consider in deciding the weight to give to a medical opinion.

(e) *Medical source opinions on issues reserved to the Commissioner.* Opinions on some issues, such as the examples that follow, are not medical opinions, as described in paragraph (a)(2) of this section, but are, instead, opinions on issues reserved to the Commissioner because they are administrative findings that are dispositive of a case; *i.e.*, that would direct the determination or decision of disability.

(1) *Opinions that you are disabled.* We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled.

(2) *Other opinions on issues reserved to the Commissioner.* We use medical sources, including your treating source, to provide evidence, including opinions, on the nature and severity of your impairment(s). Although we consider opinions from medical sources on issues such as whether your impairment(s) meets or equals the requirements of any impairment(s) in the Listing of Impairments in appendix 1 to this subpart, your residual functional capacity (see §§404.1545 and 404.1546), or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner.

§ 404.1528 Symptoms, signs, and laboratory findings.

(a) *Symptoms* are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.

(b) *Signs* are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena that indicate specific psychological abnormalities, e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

(c) *Laboratory findings* are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests.

§ 404.1529 How we evaluate symptoms, including pain.

(a) *General.* In determining whether you are disabled, we consider all your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence. By objective medical evidence, we mean medical signs and laboratory findings as defined in §404.1528 (b) and (c). By other evidence, we mean the kinds of evidence described in §§404.1512(b)(2) through (8) and 404.1513(b)(1), (4), and (5), and (d). These include statements or reports from you, your treating or nontreating source, and others about your medical history, diagnosis, prescribed treatment, daily activities, efforts to work, and any other evidence showing how your impairment(s) and any related symptoms affect your ability to work. We will consider all of your statements about your symptoms, such as pain, and any description you, your treating source or nontreating source, or other persons may

provide about how the symptoms affect your activities of daily living and your ability to work. However, statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment(s) which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all of the other evidence (including statements about the intensity and persistence of your pain or other symptoms which may reasonably be accepted as consistent with the medical signs and laboratory findings), would lead to a conclusion that you are disabled. In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you. (Section 404.1527 explains how we consider opinions of your treating source and other medical opinions on the existence and severity of your symptoms, such as pain.) We will then determine the extent to which your alleged functional limitations and restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work.

(b) Need for medically determinable impairment that could reasonably be expected to produce your symptoms, such as pain. Your symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect your ability to do basic work activities unless medical signs or laboratory findings show that a medically determinable impairment(s) is present. Medical signs and laboratory findings, established by medically acceptable clinical or laboratory diagnostic techniques, must show the existence of a medical impairment(s) which results from anatomical, physiological, or psychological abnormalities and which could reasonably be expected to produce the pain or other symptoms alleged. In cases decided by a State agency (except in disability hearings under §§404.914 through 404.918 and in fully favorable determinations made by State agency disability examiners alone under §404.1615(c)(3)), a State agency medical or psychological consultant or other medical or psychological consultant designated by the Commissioner (or a medical or psychological expert (as defined in §405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) directly participates in determining whether your medically determinable impairment(s) could reasonably be expected to produce your alleged symptoms. In the disability hearing process, a medical or psychological consultant may provide an advisory assessment to assist a disability hearing officer in determining whether your impairment(s) could reasonably be expected to produce your alleged symptoms. At the administrative law judge hearing or Appeals Council level of the administrative review process, or at the Federal reviewing official, administrative law judge, and Decision Review Board levels in claims adjudicated under the procedures in part 405 of this chapter, the adjudicator(s) may ask for and consider the opinion of a medical or psychological expert concerning whether your impairment(s) could reasonably be expected to produce your alleged symptoms. The finding that your impairment(s) could reasonably be expected to produce your pain or other symptoms does not involve a determination as to the intensity, persistence, or functionally limiting effects of your symptoms. We will develop evidence regarding the possibility of a medically determinable mental impairment when we have information to suggest that such an impairment exists, and you allege pain or other symptoms but the medical signs and laboratory findings do not substantiate any physical impairment(s) capable of producing the pain or other symptoms.

(c) Evaluating the intensity and persistence of your symptoms, such as pain, and determining the extent to which your symptoms limit your capacity for work—(1) General. When the medical signs or laboratory findings show that you have a medically determinable impairment(s) that could reasonably be expected to produce your symptoms, such as pain, we must then evaluate the intensity and persistence of your symptoms so that we can determine how your symptoms limit your capacity for work. In evaluating the intensity and persistence of your symptoms, we consider all of the available evidence, including your history, the signs and laboratory findings, and statements from you, your treating or nontreating source, or other persons about how your symptoms affect you. We also consider the medical opinions of your treating source and other medical opinions as explained in §404.1527. Paragraphs (c)(2) through (c)(4) of this section explain further how we evaluate the intensity and persistence of your symptoms and how we determine the extent to which your symptoms limit your capacity for work, when the medical signs or laboratory findings show that you have a medically determinable impairment(s) that could reasonably be expected to produce your symptoms, such as pain.

(2) Consideration of objective medical evidence. Objective medical evidence is evidence obtained from the application of medically acceptable clinical and laboratory diagnostic techniques, such as evidence of reduced joint motion, muscle

spasm, sensory deficit or motor disruption. Objective medical evidence of this type is a useful indicator to assist us in making reasonable conclusions about the intensity and persistence of your symptoms and the effect those symptoms, such as pain, may have on your ability to work. We must always attempt to obtain objective medical evidence and, when it is obtained, we will consider it in reaching a conclusion as to whether you are disabled. However, we will not reject your statements about the intensity and persistence of your pain or other symptoms or about the effect your symptoms have on your ability to work solely because the available objective medical evidence does not substantiate your statements.

(3) Consideration of other evidence. Since symptoms sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, we will carefully consider any other information you may submit about your symptoms. The information that you, your treating or nontreating source, or other persons provide about your pain or other symptoms (e.g., what may precipitate or aggravate your symptoms, what medications, treatments or other methods you use to alleviate them, and how the symptoms may affect your pattern of daily living) is also an important indicator of the intensity and persistence of your symptoms. Because symptoms, such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which you, your treating or nontreating source, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account as explained in paragraph (c)(4) of this section in reaching a conclusion as to whether you are disabled. We will consider all of the evidence presented, including information about your prior work record, your statements about your symptoms, evidence submitted by your treating or nontreating source, and observations by our employees and other persons. Section 404.1527 explains in detail how we consider and weigh treating source and other medical opinions about the nature and severity of your impairment(s) and any related symptoms, such as pain. Factors relevant to your symptoms, such as pain, which we will consider include:

- (i) Your daily activities;
- (ii) The location, duration, frequency, and intensity of your pain or other symptoms;
- (iii) Precipitating and aggravating factors;
- (iv) The type, dosage, effectiveness, and side effects of any medication you take or have taken to alleviate your pain or other symptoms;
- (v) Treatment, other than medication, you receive or have received for relief of your pain or other symptoms;
- (vi) Any measures you use or have used to relieve your pain or other symptoms (e.g., lying flat on your back, standing for 15 to 20 minutes every hour, sleeping on a board, etc.); and
- (vii) Other factors concerning your functional limitations and restrictions due to pain or other symptoms.

(4) How we determine the extent to which symptoms, such as pain, affect your capacity to perform basic work activities. In determining the extent to which your symptoms, such as pain, affect your capacity to perform basic work activities, we consider all of the available evidence described in paragraphs (c)(1) through (c)(3) of this section. We will consider your statements about the intensity, persistence, and limiting effects of your symptoms, and we will evaluate your statements in relation to the objective medical evidence and other evidence, in reaching a conclusion as to whether you are disabled. We will consider whether there are any inconsistencies in the evidence and the extent to which there are any conflicts between your statements and the rest of the evidence, including your history, the signs and laboratory findings, and statements by your treating or nontreating source or other persons about how your symptoms affect you. Your symptoms, including pain, will be determined to diminish your capacity for basic work activities to the extent that your alleged functional limitations and restrictions due to symptoms, such as pain, can reasonably be accepted as consistent with the objective medical evidence and other evidence.

(4) Impact of symptoms (including pain) on residual functional capacity. If you have a medically determinable severe physical or mental impairment(s), but your impairment(s) does not meet or equal an impairment listed in appendix 1 of this subpart, we will consider the impact of your impairment(s) and any related symptoms, including pain, on your residual functional capacity. (See §404.1545.)

§ 404.1545 Your residual functional capacity.

(a) *General*—(1) *Residual functional capacity assessment.* Your impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what you can do in a work setting. Your residual functional capacity is the most you can still do despite your limitations. We will assess your residual functional capacity based on all the relevant evidence in your case record. (See §404.1546.)

(2) *If you have more than one impairment.* We will consider all of your medically determinable impairments of which we are aware, including your medically determinable impairments that are not “severe,” as explained in §§404.1520(c), 404.1521, and 404.1523, when we assess your residual functional capacity. (See paragraph (e) of this section.)

(3) *Evidence we use to assess your residual functional capacity.* We will assess your residual functional capacity based on all of the relevant medical and other evidence. In general, you are responsible for providing the evidence we will use to make a finding about your residual functional capacity. (See §404.1512(c).) However, before we make a determination that you are not disabled, we are responsible for developing your complete medical history, including arranging for a consultative examination(s) if necessary, and making every reasonable effort to help you get medical reports from your own medical sources. (See §§404.1512(d) through (f).) We will consider any statements about what you can still do that have been provided by medical sources, whether or not they are based on formal medical examinations. (See §404.1513.) We will also consider descriptions and observations of your limitations from your impairment(s), including limitations that result from your symptoms, such as pain, provided by you, your family, neighbors, friends, or other persons. (See paragraph (e) of this section and §404.1529.)

(4) *What we will consider in assessing residual functional capacity.* When we assess your residual functional capacity, we will consider your ability to meet the physical, mental, sensory, and other requirements of work, as described in paragraphs (b), (c), and (d) of this section.

(5) *How we will use our residual functional capacity assessment.* (i) We will first use our residual functional capacity assessment at step four of the sequential evaluation process to decide if you can do your past relevant work. (See §§404.1520(f) and 404.1560(b).)

(ii) If we find that you cannot do your past relevant work (or you do not have any past relevant work), we will use the same assessment of your residual functional capacity at step five of the sequential evaluation process to decide if you can make an adjustment to any other work that exists in the national economy. (See §§404.1520(g) and 404.1566.) At this step, we will not use our assessment of your residual functional capacity alone to decide if you are disabled. We will use the guidelines in §§404.1560 through 404.1569a, and consider our residual functional capacity assessment together with the information about your vocational background to make our disability determination or decision. For our rules on residual functional capacity assessment in deciding whether your disability continues or ends, see §404.1594.

(b) *Physical abilities.* When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work.

(c) *Mental abilities.* When we assess your mental abilities, we first assess the nature and extent of your mental limitations and restrictions and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to carry out certain mental activities, such as limitations in understanding, remembering, and carrying out instructions, and in responding appropriately to supervision, co-workers, and work pressures in a work setting, may reduce your ability to do past work and other work.

(d) *Other abilities affected by impairment(s).* Some medically determinable impairment(s), such as skin impairment(s), epilepsy, impairment(s) of vision, hearing or other senses, and impairment(s) which impose environmental restrictions, may cause limitations and restrictions which affect other work-related abilities. If you have this type of impairment(s),

we consider any resulting limitations and restrictions which may reduce your ability to do past work and other work in deciding your residual functional capacity.

(e) *Total limiting effects.* When you have a severe impairment(s), but your symptoms, signs, and laboratory findings do not meet or equal those of a listed impairment in appendix 1 of this subpart, we will consider the limiting effects of all your impairment(s), even those that are not severe, in determining your residual functional capacity. Pain or other symptoms may cause a limitation of function beyond that which can be determined on the basis of the anatomical, physiological or psychological abnormalities considered alone; e.g., someone with a low back disorder may be fully capable of the physical demands consistent with those of sustained medium work activity, but another person with the same disorder, because of pain, may not be capable of more than the physical demands consistent with those of light work activity on a sustained basis. In assessing the total limiting effects of your impairment(s) and any related symptoms, we will consider all of the medical and nonmedical evidence, including the information described in §404.1529(c).

Vocational Considerations

§ 404.1562 Medical-vocational profiles showing an inability to make an adjustment to other work.

§ 404.1564 Your education as a vocational factor.

§ 404.1565 Your work experience as a vocational factor.

§ 404.1566 Work which exists in the national economy.

§ 404.1567 Physical exertion requirements.

§ 404.1568 Skill requirements.

§ 404.1562 Medical-vocational profiles showing an inability to make an adjustment to other work.

(a) *If you have done only arduous unskilled physical labor.* If you have no more than a marginal education (*see* §404.1564) and work experience of 35 years or more during which you did only arduous unskilled physical labor, and you are not working and are no longer able to do this kind of work because of a severe impairment(s) (*see* §§404.1520(c), 404.1521, and 404.1523), we will consider you unable to do lighter work, and therefore, disabled.

Example to paragraph (a): B is a 58-year-old miner's helper with a fourth grade education who has a lifelong history of unskilled arduous physical labor. B says that he is disabled because of arthritis of the spine, hips, and knees, and other impairments. Medical evidence shows a "severe" combination of impairments that prevents B from performing his past relevant work. Under these circumstances, we will find that B is disabled.

(b) *If you are at least 55 years old, have no more than a limited education, and have no past relevant work experience.* If you have a severe, medically determinable impairment(s) (*see* §§404.1520(c), 404.1521, and 404.1523), are of advanced age (age 55 or older, *see* §404.1563), have a limited education or less (*see* §404.1564), and have no past relevant work experience (*see* §404.1565), we will find you disabled. If the evidence shows that you meet this profile, we will not need to assess your residual functional capacity or consider the rules in appendix 2 to this subpart.

§ 404.1564 Your education as a vocational factor.

(a) *General. Education* is primarily used to mean formal schooling or other training which contributes to your ability to meet vocational requirements, for example, reasoning ability, communication skills, and arithmetical ability. However, if you do not have formal schooling, this does not necessarily mean that you are uneducated or lack these abilities. Past work experience and the kinds of responsibilities you had when you were working may show that you have intellectual abilities, although you may have little formal education. Your daily activities, hobbies, or the results of testing may also show that you have significant intellectual ability that can be used to work.

(b) *How we evaluate your education.* The importance of your educational background may depend upon how much time has passed between the completion of your formal education and the beginning of your physical or mental impairment(s) and by what you have done with your education in a work or other setting. Formal education that you completed many years before your impairment began, or unused skills and knowledge that were a part of your formal

education, may no longer be useful or meaningful in terms of your ability to work. Therefore, the numerical grade level that you completed in school may not represent your actual educational abilities. These may be higher or lower. However, if there is no other evidence to contradict it, we will use your numerical grade level to determine your educational abilities. The term *education* also includes how well you are able to communicate in English since this ability is often acquired or improved by education. In evaluating your educational level, we use the following categories:

(1) *Illiteracy*. Illiteracy means the inability to read or write. We consider someone illiterate if the person cannot read or write a simple message such as instructions or inventory lists even though the person can sign his or her name. Generally, an illiterate person has had little or no formal schooling.

(2) *Marginal education*. Marginal education means ability in reasoning, arithmetic, and language skills which are needed to do simple, unskilled types of jobs. We generally consider that formal schooling at a 6th grade level or less is a marginal education.

(3) *Limited education*. Limited education means ability in reasoning, arithmetic, and language skills, but not enough to allow a person with these educational qualifications to do most of the more complex job duties needed in semi-skilled or skilled jobs. We generally consider that a 7th grade through the 11th grade level of formal education is a limited education.

(4) *High school education and above*. High school education and above means abilities in reasoning, arithmetic, and language skills acquired through formal schooling at a 12th grade level or above. We generally consider that someone with these educational abilities can do semi-skilled through skilled work.

(5) *Inability to communicate in English*. Since the ability to speak, read and understand English is generally learned or increased at school, we may consider this an educational factor. Because English is the dominant language of the country, it may be difficult for someone who doesn't speak and understand English to do a job, regardless of the amount of education the person may have in another language. Therefore, we consider a person's ability to communicate in English when we evaluate what work, if any, he or she can do. It generally doesn't matter what other language a person may be fluent in.

(6) *Information about your education*. We will ask you how long you attended school and whether you are able to speak, understand, read and write in English and do at least simple calculations in arithmetic. We will also consider other information about how much formal or informal education you may have had through your previous work, community projects, hobbies, and any other activities which might help you to work.

§ 404.1565 Your work experience as a vocational factor.

(a) *General. Work experience* . . . A gradual change occurs in most jobs so that after 15 years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. The 15-year guide is intended to insure that remote work experience is not currently applied. If you have no work experience or worked only "off-and-on" or for brief periods of time during the 15-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work*. Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we will try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last 15 years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about

the amount of walking, standing, sitting, lifting and carrying you did during the work day, as well as any other physical or mental duties of your job. If all of your work in the past 15 years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

§ 404.1566 Work which exists in the national economy.

(a) *General.* We consider that work exists in the national economy when it exists in significant numbers either in the region where you live or in several other regions of the country. It does not matter whether—

- (1) Work exists in the immediate area in which you live;
- (2) A specific job vacancy exists for you; or
- (3) You would be hired if you applied for work.

* * *

§ 404.1567 Physical exertion requirements.

To determine the physical exertion requirements of work in the national economy, we classify jobs as *sedentary, light, medium, heavy, and very heavy*. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. In making disability determinations under this subpart, we use the following definitions:

- (a) *Sedentary work.* Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.
- (b) *Light work.* Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.
- (c) *Medium work.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.
- (d) *Heavy work.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.

§ 404.1568 Skill requirements.

In order to evaluate your skills and to help determine the existence in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. In classifying these occupations, we use materials published by the Department of Labor. When we make disability determinations under this subpart, we use the following definitions:

- (a) *Unskilled work.* Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from

machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs.

(b) *Semi-skilled work.* Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work, but more complex than unskilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks.

(c) *Skilled work.* Skilled work requires qualifications in which a person uses judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality, or quantity of material to be produced. Skilled work may require laying out work, estimating quality, determining the suitability and needed quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work. Other skilled jobs may require dealing with people, facts, or figures or abstract ideas at a high level of complexity.

(d) *Skills that can be used in other work (transferability)*—(1) *What we mean by transferable skills.* We consider you to have skills that can be used in other jobs, when the skilled or semi-skilled work activities you did in past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. This depends largely on the similarity of occupationally significant work activities among different jobs.

(2) *How we determine skills that can be transferred to other jobs.* Transferability is most probable and meaningful among jobs in which—

(i) The same or a lesser degree of skill is required;

(ii) The same or similar tools and machines are used; and

(iii) The same or similar raw materials, products, processes, or services are involved.

(3) *Degrees of transferability.* There are degrees of transferability of skills ranging from very close similarities to remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary for transferability. However, when skills are so specialized or have been acquired in such an isolated vocational setting (like many jobs in mining, agriculture, or fishing) that they are not readily usable in other industries, jobs, and work settings, we consider that they are not transferable.

(4) *Transferability of skills for persons of advanced age.* If you are of advanced age (age 55 or older), and you have a severe impairment(s) that limits you to *sedentary* or *light work*, we will find that you cannot make an adjustment to other work unless you have skills that you can transfer to other skilled or semiskilled work (or you have recently completed education which provides for direct entry into skilled work) that you can do despite your impairment(s). We will decide if you have transferable skills as follows. If you are of advanced age and you have a severe impairment(s) that limits you to no more than *sedentary* work, we will find that you have skills that are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See §404.1567(a) and §201.00(f) of appendix 2.) If you are of advanced age but have not attained age 60, and you have a severe impairment(s) that limits you to no more than *light work*, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see §404.1567(b)). If you are *closely approaching retirement age* (age 60 or older) and you have a severe impairment(s) that limits you to no more than *light work*, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See §404.1567(b) and Rule 202.00(f) of appendix 2 to this subpart.

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L. Any other manifestation(s) of HIV infection, including those listed in 114.08A–K, but without the requisite findings for those listings (for example, oral candidiasis not meeting the criteria in 114.08F, diarrhea not meeting the criteria in 114.08I), or other manifestation(s) (for example, oral hairy leukoplakia, hepatomegaly), resulting in one of the following:

1. For children from birth to attainment of age 1, at least one of the criteria in paragraphs A–E of 112.12; or

2. For children age 1 to attainment of age 3, at least one of the appropriate age-group criteria in paragraph B1 of 112.02; or

3. For children age 3 to attainment of age 18, at least two of the appropriate age-group criteria in paragraph B2 of 112.02.

114.09 *Inflammatory arthritis*. As described in 114.00D6. With:

A. Persistent inflammation or persistent deformity of:

1. One or more major peripheral weight-bearing joints resulting in the inability to ambulate effectively (as defined in 114.00C6); or

2. One or more major peripheral joints in each upper extremity resulting in the inability to perform fine and gross movements effectively (as defined in 114.00C7).

or

B. Inflammation or deformity in one or more major peripheral joints with:

1. Involvement of two or more organs/body systems with one of the organs/body systems involved to at least a moderate level of severity; and

2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

or

C. Ankylosing spondylitis or other spondyloarthropathies, with:

1. Ankylosis (fixation) of the dorsolumbar or cervical spine as shown by appropriate medically acceptable imaging and measured on physical examination at 45° or more of flexion from the vertical position (zero degrees); or

2. Ankylosis (fixation) of the dorsolumbar or cervical spine as shown by appropriate medically acceptable imaging and measured on physical examination at 30° or more of flexion (but less than 45°) measured from the vertical position (zero degrees), and involvement of two or more organs/body systems with one of the organs/body systems involved to at least a moderate level of severity.

or

D. Any other manifestation(s) of inflammatory arthritis resulting in one of the following:

1. For children from birth to attainment of age 1, at least one of the criteria in paragraphs A–E of 112.12; or

2. For children age 1 to attainment of age 3, at least one of the appropriate age-group criteria in paragraph B1 of 112.02; or

3. For children age 3 to attainment of age 18, at least two of the appropriate age-group criteria in paragraph B2 of 112.02.

114.10 *Sjögren's syndrome*. As described in 114.00D7. With:

A. Involvement of two or more organs/body systems, with:

1. One of the organs/body systems involved to at least a moderate level of severity; and

2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

OR

B. Any other manifestation(s) of Sjögren's syndrome resulting in one of the following:

1. For children from birth to attainment of age 1, at least one of the criteria in paragraphs A–E of 112.12; or

2. For children age 1 to attainment of age 3, at least one of the appropriate age-group criteria in paragraph B1 of 112.02; or

3. For children age 3 to attainment of age 18, at least two of the appropriate age-group criteria in paragraph B2 of 112.02.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting appendix 1 to subpart P of part 404, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

APPENDIX 2 TO SUBPART P OF PART 404—
MEDICAL-VOCATIONAL GUIDELINES

Sec.

200.00 Introduction.

201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).

202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).

203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).

204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction*. (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which cannot be evaluated on medical considerations alone, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of

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his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (*i.e.*, age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in the appropriate sections of the regulations.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; *i.e.*, in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (*i.e.*, the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined. When assessing the person's residual functional capacity, we consider his or her symptoms (such as pain), signs, and laboratory findings together with other evidence we obtain.

(d) The correct disability decision (*i.e.*, on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this appendix 2, a conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specific rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking, such as in cases involving combinations of impairments. For example, if strength limitations resulting from an individual's impairment(s) considered with the judgments made as to the individual's age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, nonexertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical feature(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in this appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

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(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the non-exertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this appendix 2, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussions of each factor in the appropriate sections of the regulations, which will provide insight into the adjudicative weight to be accorded each factor.

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*. (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less) and the individual's age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restrictions to sedentary work at advanced age (55 and over) for individuals with no relevant past

work or who can no longer perform vocationally relevant past work and have no transferable skills, warrants a finding of disabled in the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 50-54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h)(1) The term *younger individual* is used to denote an individual age 18 through 49. For individuals who are age 45-49, age is a less advantageous factor for making an adjustment to other work than for those who are age 18-44. Accordingly, a finding of "disabled" is warranted for individuals age 45-49 who:

- (i) Are restricted to sedentary work,
- (ii) Are unskilled or have no transferable skills,
- (iii) Have no past relevant work or can no longer perform past relevant work, and
- (iv) Are unable to communicate in English, or are able to speak and understand English but are unable to read or write in English.

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(2) For individuals who are under age 45, age is a more advantageous factor for making an adjustment to other work. It is usually not a significant factor in limiting such individuals' ability to make an adjustment to other work, including an adjustment to unskilled sedentary work, even when the individuals are unable to communicate in English or are illiterate in English.

(3) Nevertheless, a decision of "disabled" may be appropriate for some individuals under age 45 (or individuals age 45-49 for whom rule 201.17 does not direct a decision of disabled) who do not have the ability to perform a full range of sedentary work. However, the inability to perform a full range of sedentary work does not necessarily equate with a finding of "disabled." Whether an individual will be able to make an adjustment to other work requires an adjudicative assessment of factors such as the type and extent of the individual's limitations or restrictions and the extent of the erosion of the occupational base. It requires an individualized determination that considers the impact of the limitations or restrictions on the number of sedentary, unskilled occupations or the total number of jobs to which the individual may be able to adjust, considering his or her age, education and work experience, including any transferable skills or education providing for direct entry into skilled work.

(4) "Sedentary work" represents a significantly restricted range of work, and individuals with a maximum sustained work capability limited to sedentary work have very serious functional limitations. Therefore, as with any case, a finding that an individual is limited to less than the full range of sedentary work will be based on careful consideration of the evidence of the individual's medical impairment(s) and the limitations and restrictions attributable to it. Such evidence must support the finding that the individual's residual functional capacity is limited to less than the full range of sedentary work.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18-44 even if they are illiterate or unable to communicate in English.

TABLE NO. 1—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO SEDENTARY WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)

Rule	Age	Education	Previous work experience	Decision
201.01 ...	Advanced age	Limited or less	Unskilled or none	Disabled
201.02 ...	.....do .....	.....do	Skilled or semiskilled—skills not transferable ¹ .	Do.
201.03 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable ¹ .	Not disabled
201.04 ...	.....do	High school graduate or more—does not provide for direct entry into skilled work ² .	Unskilled or none	Disabled
201.05 ...	.....do	High school graduate or more—provides for direct entry into skilled work ².	.....do	Not disabled
201.06 ...	.....do	High school graduate or more—does not provide for direct entry into skilled work ² .	Skilled or semiskilled—skills not transferable ¹ .	Disabled
201.07 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable ¹ .	Not disabled
201.08 ...	.....do	High school graduate or more—provides for direct entry into skilled work ² .	Skilled or semiskilled—skills not transferable ¹ .	Do.
201.09 ...	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled
201.10 ...	.....do .....	.....do	Skilled or semiskilled—skills not transferable.	Do.
201.11 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Not disabled
201.12 ...	.....do	High school graduate or more—does not provide for direct entry into skilled work ³ .	Unskilled or none	Disabled
201.13do	High school graduate or more—provides for direct entry into skilled work ³do	Not disabled

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TABLE NO. 1—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO SEDENTARY WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)—Continued

Rule	Age	Education	Previous work experience	Decision
201.14 ...	.....do	High school graduate or more—does not provide for direct entry into skilled work ³ .	Skilled or semiskilled—skills not transferable.	Disabled
201.15 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Not disabled
201.16 ...	.....do	High school graduate or more—provides for direct entry into skilled work ³ .	Skilled or semiskilled—skills not transferable.	Do.
201.17 ...	Younger individual age 45–49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled
201.18 ...	.....do	Limited or less—at least literate and able to communicate in English.	.....do	Not disabled
201.19 ...	.....do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
201.20 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.
201.21 ...	.....do	High school graduate or more	Skilled or semiskilled—skills not transferable.	Do.
201.22 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.
201.23 ...	Younger individual age 18–44.	Illiterate or unable to communicate in English.	Unskilled or none	Do. ⁴
201.24 ...	.....do	Limited or less—at least literate and able to communicate in English.	.....do	Do. ⁴
201.25 ...	.....do	Limited or less	Skilled or semiskilled—skills not transferable.	Do. ⁴
201.26 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do. ⁴
201.27 ...	.....do	High school graduate or more	Unskilled or none	Do. ⁴
201.28 ...	.....do .....	.....do	Skilled or semiskilled—skills not transferable.	Do. ⁴
201.29 ...	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do. ⁴

¹ See 201.00(f).

² See 201.00(d).

³ See 201.00(g).

⁴ See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally

relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of semi-skilled or skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functional restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was completed in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (*i.e.*, closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

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(e) The presence of acquired skills that are readily transferable to a significant range of semi-skilled or skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for persons of advanced age who are closely approaching retirement age (age 60 or older), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18-49) even if illiterate or unable to communicate in English.

TABLE NO. 2—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO LIGHT WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.03	do	do	Skilled or semiskilled—skills transferable ¹ .	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work ² .	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work ² .	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work ² .	Skilled or semiskilled—skills not transferable.	Disabled.
202.07	do	do	Skilled or semiskilled—skills transferable ² .	Not disabled.
202.08	do	High school graduate or more—provides for direct entry into skilled work ² .	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
202.11	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	do	do	Skilled or semiskilled—skills transferable.	Do.
202.13	do	High school graduate or more	Unskilled or none	Do.
202.14	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.15	do	do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	do	Limited or less—at least literate and able to communicate in English.	do	Do.
202.18	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	do	do	Skilled or semiskilled—skills transferable.	Do.
202.20	do	High school graduate or more	Unskilled or none	Do.
202.21	do	do	Skilled or semiskilled—skills not transferable.	Do.

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TABLE NO. 2—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO LIGHT WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)—Continued

Rule	Age	Education	Previous work experience	Decision
202.22 .....	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.

¹ See 202.00(f).
² See 202.00(c).

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired person retains the functional capacity to perform medium work. Even the adversity of advanced age (55 or over) and a work history of unskilled work may be offset by the substantial work capability represented by the

functional capacity to perform medium work. However, we will find that a person who (1) has a marginal education, (2) has work experience of 35 years or more doing only arduous unskilled physical labor, (3) is not working, and (4) is no longer able to do this kind of work because of a severe impairment(s) is disabled, even though the person is able to do medium work. (See §404.1562(a) in this subpart and §416.962(a) in subpart I of part 416.)

(c) However, the absence of any relevant work experience becomes a more significant adversity for persons of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for persons closely approaching retirement age (60 or older) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE NO. 3—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO MEDIUM WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02 .....	.....do	Limited or less	None	Do.
203.03 .....	.....do	Limited	Unskilled	Not disabled.
203.04 .....	.....do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
203.05 .....	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.
203.06 .....	.....do	High school graduate or more	Unskilled or none	Do.
203.07 .....	.....do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.08 .....	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.
203.09 .....	.....do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11 .....	.....do .....	.....do	Unskilled	Not disabled.
203.12 .....	.....do .....	.....do	Skilled or semiskilled—skills not transferable.	Do.
203.13 .....	.....do .....	.....do	Skilled or semiskilled—skills transferable.	Do.
203.14 .....	.....do	High school graduate or more	Unskilled or none	Do.
203.15do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16dodo	Skilled or semiskilled—skills transferable.	Do.

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TABLE NO. 3—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO MEDIUM WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)—Continued

Rule	Age	Education	Previous work experience	Decision
203.17	.....do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	.....do	.....do	Skilled or semiskilled—skills not transferable.	Do.
203.20	.....do	.....do	Skilled or semiskilled—skills transferable.	Do.
203.21	.....do	High school graduate or more	Unskilled or none	Do.
203.22	.....do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	.....do	.....do	Skilled or semiskilled—skills transferable.	Do.
203.24	.....do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual	Limited or less	Unskilled or none	Do.
203.26	.....do	.....do	Skilled or semiskilled—skills not transferable.	Do.
203.27	.....do	.....do	Skilled or semiskilled—skills transferable.	Do.
203.28	.....do	High school graduate or more	Unskilled or none	Do.
203.29	.....do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	.....do	.....do	Skilled or semiskilled—skills transferable.	Do.
203.31	.....do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work or very heavy work includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of “not disabled”. Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled, even though age, education, and skill level of

prior work experience may be considered adverse.

[45 FR 55584, Aug. 20, 1980, as amended at 56 FR 57944, Nov. 14, 1991; 68 FR 51164, Aug. 26, 2003; 73 FR 64197, Oct. 29, 2008]

Subpart Q—Determinations of Disability

AUTHORITY: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

SOURCE: 46 FR 29204, May 29, 1981, unless otherwise noted.

GENERAL PROVISIONS

§ 404.1601 Purpose and scope.

This subpart describes the standards of performance and administrative requirements and procedures for States making determinations of disability for the Commissioner under title II of the Act. It also establishes the Commissioner’s responsibilities in carrying

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TN 2 (07-96)

DI 90070.050 DAA Material Determinations

A. Policy

Section 105 of P.L. 104-121 did not change the definition of “material.” It provides that when DAA is material, SSA may not consider an individual disabled.

1. What Is New

Under Public Law 104-121, an individual cannot be considered to be disabled if DAA is a contributing factor material to his/her disability determination.

2. What Is Not New

What “material” means and how it is determined have not changed.

B. Process

The steps in determining when to make the “material” determination are described below:

1. Decide if the Individual is Disabled

Follow the general disability case development and evaluation procedures in [DI 22000.000](#) ff. through [DI 25500.000](#) and [DI 28000.000](#) ff. to decide whether the individual is disabled. (Consider the effects of DAA when making this determination.)

- If the individual is disabled, proceed to [DI 90070.050B.2](#).
- If the individual is not disabled, STOP. (No material determination is needed.)

2. Decide If There Is Medical Evidence of DAA

Follow the guidelines in C. below to decide if there is “medical evidence of DAA.”

- If there is medical evidence of DAA, proceed to [DI 90070.050B.3.](#)
- If there is no medical evidence of DAA, STOP. (No material determination is needed.)

3. Make the Material Determination

Follow the guidelines in D. below to decide if DAA is a contributing factor material to the disability determination.

- a. If DAA is material, the individual cannot be considered to be disabled.
- b. If DAA is not material, the individual can be considered to be disabled.

C. Definitions - medical evidence

The following definitions relates to Medical evidence of DAA:

1. Medical Evidence of DAA

- a. “Medical evidence of DAA” means that the evidence:
 - Is from an acceptable medical source (see [DI 22505.003B.1.](#)); and
 - Is sufficient and appropriate to establish that the individual has a medically determinable substance use disorder (see [DI 90070.050C.2.](#)).
- b. An individual's own statement about his/her condition, e.g., “I am an alcoholic” or “I am a drug addict,” is:
 - Considered “evidence,” but
 - Never sufficient and appropriate to establish the existence of DAA, even if that statement is reported by an acceptable medical source.

2. Medically Determinable Substance Use Disorders

Medically determinable substance use disorders:

- Are medical conditions described as “substance dependence” and “substance abuse” disorders in the current edition of the American Psychiatric Association’s **Diagnostic and Statistical Manual of Mental Disorders** (the DSM); i.e., conditions in which the individual's maladaptive pattern of substance use leads to clinically significant impairment or distress.
- Do not include medical conditions that arise from a mother's use of alcohol or drugs

during pregnancy (e.g., fetal alcohol syndrome or “crack baby” cases).

D. Process - considerations in making a material determination

Adjudicators will take the following considerations into account when DAA is involved.

1. DAA Is Material Only When

Find that DAA is material only when the evidence establishes that the individual has medically determinable DAA as described in [DI 90070.050E](#). **and** Would not be disabled if he or she stopped using drugs or alcohol.

2. Key Factor to Consider

The key factor you must consider when making a material determination is whether you would still find the individual disabled if he/she stopped using drugs or alcohol. In doing this, decide:

- Which of the current physical and mental limitations, upon which you based the current disability determination, would remain if the individual stopped using drugs or alcohol; and
- Whether any or all of these remaining limitations would still be disabling.

3. Examples of When DAA Is Material

The following are some examples of when DAA is material.

- a. The only impairment is a substance use disorder.
- b. The individual's other impairment(s) is by itself not disabling; e.g., a hearing impairment that is “not severe.”
- c. The individual's other impairment(s) is exacerbated by DAA and the evidence documents that, after a drug-free period of 1 month, the other impairment(s) is by itself not disabling.

E. Procedure - documenting claims involving DAA

Apply the guidelines in [DI 24515.001](#) with care because a finding of “material” will result in a determination that the individual cannot be considered to be disabled.

1. Establish Medically Determinable DAA

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TN 6 (05-99)

DI 25020.010 Mental Limitations

A. POLICY

1. Nonexertional vs. Exertional

Mental limitations are generally considered to be nonexertional, but depression and conversion disorders may also limit exertion.

2. Medical Listing Not Met or Equaled

- a. It cannot be assumed that a failure to meet or equal one of the medical listings for mental impairments equates with the capacity to do at least unskilled work.
- b. If a medical listing is not met or equaled, the process must continue to consider whether the individual can meet the mental demands of PRW and, if not, whether he/she has the ability to adjust to other work considering his /her remaining mental and other functional capacities and vocational factors.

3. Mental Demands of Unskilled Work

- a. The **basic mental demands** of competitive, remunerative, **unskilled work** include the abilities (on a sustained basis) to:
 - understand, carry out, and remember simple instructions;
 - make judgments that are commensurate with the functions of unskilled work, i.e., simple work-related decisions.
 - respond appropriately to supervision, coworkers and work situations; and
 - deal with changes in a routine worksetting.
- b. A **substantial loss of ability to meet** any of the **basic mental demands** listed in

"DI 25020.010A.3.a.:

- severely limits the potential occupational base and thus,
- would justify a finding of inability to perform other work even for persons with favorable age, education and work experience.

NOTE: “Substantial loss” cannot be precisely defined. It does not necessarily relate to any particular adjective, number, or percentage. In practical terms, an individual has a substantial loss of ability to perform a basic mental activity when he/she cannot perform the particular activity in regular, competitive employment but, at best, could do so only in a sheltered work setting where special considerations and attention are provided. This requires professional judgment, on the basis of the evidence in file in each case. The impairment in a claim of this type may meet or equal the listed medical criteria. Therefore, before making a determination that includes vocational evaluation, the adjudicator should discuss the case with a psychiatrist or psychologist to learn whether a significant part of the evidence had been previously overlooked or underrated.

- c. A person who can meet all of the mental demands listed in “[DI 25020.010A.3.a.](#)” and has only a mental limitation(s) will almost always be capable of adjusting to other work since his/her potential occupational base would be the unskilled jobs at all exertional levels.

EXCEPTION: In a few **rare** instances where a person's vocational profile is **extremely** adverse (e.g., closely approaching retirement age, limited education or less, and essentially a lifetime commitment to a field of **unskilled** work that is now precluded by a mental impairment), a finding of “disabled” may be appropriate. (This would be adjudicated under the Lifetime Commitments Special Medical-Vocational Profile. See [DI 25010.001B.3.](#)).

B. PROCEDURE

1. Introduction

In [DI 25020.010B.2.](#) through [DI 25020.010B.5.](#) it shows how the specific abilities listed in section I (“Summary Conclusions”) on the mental RFC assessment form (SSA-4734-F4-SUP) relate to:

- the basic mental demands of work listed in [DI 25020.010A.3.a.](#) and
- the ability to perform work at various exertional levels and for specific jobs.

NOTE: The purpose of section I (“Summary Conclusion”) on the SSA-4734-F-SUP is chiefly to have a worksheet to ensure that the psychiatrist or psychologist has considered each of these pertinent mental activities and the claimant's or beneficiary's degree of limitation for sustaining these activities over a normal workday and workweek on an ongoing, appropriate, and independent basis. **It is the narrative** written by the psychiatrist or psychologist **in section III** (“Functional Capacity Assessment”) of form SSA-4734-F4-Sup **that adjudicators are to use as the assessment of RFC.** Adjudicators must take the RFC assessment **in section III** and decide what significance the elements discussed in this

RFC assessment have in terms of the person's ability to meet the mental demands of past work or other work. This must be done carefully using the adjudicator's informed professional judgment.

2. Mental Abilities Needed For Any Job

a. Understanding, carrying out, and remembering simple instructions

- The ability to remember locations and worklike procedures.
- The ability to understand and remember very short and simple instructions.
- The ability to carry out very short and simple instructions.
- The ability to maintain concentration and attention for extended periods (the approximately 2-hour segments between arrival and first break, lunch, second break, and departure).
- The ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.
- The ability to sustain an ordinary routine without special supervision.
- The ability to work in coordination with or proximity to others without being (unduly) distracted by them.
- The ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.

b. Use of judgment

- The ability to make simple work-related decisions.
- The ability to be aware of normal hazards and take appropriate precautions.

c. Responding appropriately to supervision, coworkers, and usual work situations

- The ability to ask simple questions or request assistance.
- The ability to accept instructions and respond appropriately to criticism from supervisors.
- The ability to get along with coworkers or peers without (unduly) distracting them or exhibiting behavioral extremes.

d. Dealing with changes in a routine worksetting — the ability to respond appropriately to changes in (a routine) work setting.

3. Mental Abilities Critical For Performing Unskilled Work

The claimant/beneficiary must show the ability to:

- a. remember work-like procedures (locations are not critical).
- b. understand and remember very short and simple instructions.
- c. carry out very short and simple instructions.
- d. maintain attention for extended periods of 2-hour segments (concentration is not critical).
- e. maintain regular attendance and be punctual within customary tolerances. (These tolerances are usually strict.) Maintaining a schedule is not critical.
- f. sustain an ordinary routine without special supervision.
- g. work in coordination with or proximity to others without being (unduly) distracted by them.
- h. make simple work-related decisions.
- i. complete a normal workday and workweek without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and length of rest periods. (These requirements are usually strict.)
- j. ask simple questions or request assistance.
- k. accept instructions and respond appropriately to criticism from supervisors.
- l. get along with coworkers or peers without (unduly) distracting them or exhibiting behavioral extremes.
- m. respond appropriately to changes in a (routine) work setting.
- n. be aware of normal hazards and take appropriate precautions.

4. Mental Abilities Needed To Do Semiskilled and Skilled Work

- a. The basic abilities listed in “[DI 25020.010B.2.](#)” (i.e., the “abilities needed to perform any job”) are necessary.
- b. Often, there is an **increasing requirement for understanding and memory and for concentration and persistence** , e.g.: the ability to:
 - understand and remember detailed instructions,
 - carry out detailed instructions, and
 - set realistic goals or make plans independently of others.
- c. Other special abilities may be needed depending upon the type of work and specific functions it involves.

5. Degrees of Mental Limitations vs. Specific Jobs

Different jobs require different degrees of mental ability.

EXAMPLE 1: Most competitive jobs require the **ability to meet basic standards of neatness and cleanliness**. However, the standards that must be met vary greatly depending upon whether the job(s) being considered involve dealing with the public; or working in a factory, a coal mine, a stock yard, etc.

EXAMPLE 2: Most competitive jobs require the ability to travel to and from work and thus, would be precluded by **extreme agoraphobia** in which the person is incapable of leaving his/her home. However, a mild case of agoraphobia may not preclude the ability to travel to and from work or preclude work performed in the same (and thus, familiar) setting each day.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0425020010>

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SSR 82-62: Past Relevant Work (PRW)

- ***Related Regulations: 20 CFR 404.1565(a) and 416.965 (Basic Definition of PRW)***
- ***Elaborates on Regulatory Definition of PRW***
 - PRW includes only work performed in the 15-year period prior to the time of adjudication at the initial, reconsideration or higher appellate level.
 - If the date last insured (DLI) is before the adjudication date, PRW includes work performed 15 years before the DLI.
 - In a cessation case, PRW includes work performed in the 15-year period prior to adjudication of the issue of continuing disability.
 - Job must have lasted long enough to learn to do the work
 - Must have been substantial gainful activity

SSR 82-61: Past Relevant Work (PRW)

- ***Related Regulations: 20 CFR 404.1520(e) and 416.920(e)***
- ***How To Determine if Claimant Can Perform PRW***
 - If claimant has the RFC to meet the demands of a past job ***as actually performed***, he or she is not disabled.
 - If claimant has the RFC to meet the demands of a past job ***as generally required by employers*** throughout the national economy, he or she is not disabled.
 - Broad generic occupational classification of jobs (e.g. delivery job, packaging job) should not be used in identifying demands of the job in question.
 - DOT can be relied upon to define the job as it is usually performed in the national economy.

- **Defines Composite Jobs**
 - Composite jobs have significant elements of two or more occupations
 - Have no counterpart in the DOT

SSR 83-10: Applying the Medical-Vocational Guidelines (Grids)

- **Related Regulations:**
 - **Appendix 2 to Subpart P of Part 404 (Grids)**
 - **20 CFR 404.1568 and 416.968 (Skill Level Definitions)**
- ***Residual Functional Capacity (RFC) is a medical assessment of what an individual can do in a work setting in spite of the functional limitations and environmental restrictions imposed by all of his or her medically determinable impairments.***
- **Defines exertional levels**
 - Sedentary Work
 - Lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools
 - Walking and standing totaling no more than 2 hours in an 8-hour day
 - Entails no significant stooping
 - Most unskilled sedentary jobs require good use of the hands and fingers for repetitive hand-finger actions.
 - Light Work
 - Lifting no more than 20 pounds as a time
 - Frequent (from one-third to two-thirds of the time) lifting or carrying of objects weighing up to 10 pounds
 - Standing or walking, off and on, for a total of approximately 6 hours of an 8-hour day

- Even though the weight lifted in a particular light job may be very little, a job is light when it requires a good deal of walking or standing.
- A job is light when it involves sitting most of the time but requires pushing and pulling of arm-hand or leg-foot controls which require greater exertion than that in sedentary work
- Only occasional stooping required
- Grasping is required, but use of the fingers for fine activities is not needed to the extent it is in sedentary work.
- Medium Work
 - Lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds
 - Standing or walking, off and on, for 6 hours in an 8-hour day
 - Frequent bending-stooping is required.
 - Grasping is required, but use of the fingers for fine activities is not needed to the extent it is in sedentary work.
- ***Transferable Skills***
 - Without transferable skills, a claimant cannot perform unskilled or semi-skilled work.
 - Requirements for a finding that a claimant has transferable skills:
 - Must have performed work above the unskilled level
 - Must have identifiable skills
 - Must be able to use these skills in specific skilled or semi-skilled occupations within his or her RFC
- ***Nonexertional Limitations***
 - Limitation of function other than the primary strength activities
 - Examples: mental, vision, hearing, speech, stooping, balancing, kneeling, crouching, crawling, reaching, handling, and fingering

SSR 82-41: Transferable Skills

- **Definition of Skill**
 - Knowledge of a work activity
 - Requires exercise of significant judgment that goes beyond carrying out simple job duties
 - Acquired through performance of an occupation above the unskilled level (requires more than 30 days to learn)
 - Practical and familiar knowledge of the principles and processes of an art, science, or trade
 - Ability to apply these principles and processes in a proper and approved manner
 - Gives a person a special advantage over unskilled workers in the labor market

- **Examples of Skills**
 - Making precise measurements
 - Reading blueprints
 - Setting up and operating complex machinery

- **Skills versus Traits**
 - Examples of traits:
 - Alertness
 - Coordination and dexterity with use of hands or feet
 - It is the acquired capacity to perform the work activities with facility (rather than the traits themselves) that gives rise to potentially transferable skills.

- **Required Findings of Fact Regarding Transferable Skills**
 - The acquired work skills must be identified.
 - Specific occupations to which the acquired work skills are transferable must be cited in the decision.
 - Evidence that these specific skilled or semi-skilled jobs exist in significant numbers in the national economy should be included.

SSR 85-15: Nonexertional Limitations

- ***A Finding of Disability is Justified if There is a Substantial Loss of the Ability to Meet the Basic Mental Demands of Competitive Employment. See SSR 96-9p for specifics.***

- ***Vocational Expert Testimony is required to determine the vocational impact of nonexertional limitations.***
- ***Reaching and handling are required in most jobs.***
- ***Fingering is required in most unskilled sedentary jobs.***
- ***Some stooping is required to do almost any kind of work.***

SSR 96-9p: RFC for Less Than A Full Range of Sedentary Work

- ***Effect of Various Limitations on Capacity for Unskilled Sedentary Work:***
 - Inability to lift or carry more than 1 or 2 pounds would erode the unskilled sedentary base significantly.
 - A limitation to standing and walking for a total of only a few minutes during the workday would erode the unskilled sedentary occupational base significantly.
 - If an individual is unable to sit for a total of 6 hours in an 8-hour day, the unskilled sedentary occupational base will be eroded.
 - A complete inability to stoop would usually result in a finding of disability.
 - Manipulative limitations:
 - Any significant limitation of the ability to handle and work with small objects with both hands significantly erodes the unskilled sedentary occupational base.
 - When the limitation is less significant, especially if the limitation is in the non-dominant hand, vocational testimony may be necessary.
 - Visual Limitations:
 - If a limitation prevents an individual from seeing the small objects involved in most sedentary unskilled work, the occupational base is significantly eroded.
 - If an individual is not able to avoid ordinary hazards in the workplace, such as boxes on the floor, doors ajar, or approaching people or vehicles, the occupational base is significantly eroded.
- ***Mental Requirements of Unskilled Work. A Finding of Disability is Justified if There is a Substantial Loss of the Ability to***
 - understand, remember and carry out simple instructions; OR
 - make simple work-related decisions; OR

- respond appropriately to supervision, coworkers, and usual work situations; OR
- deal with changes in a routine work setting
- **Assistive Devices**
 - An individual who uses a medically required hand-held assistive device in one hand may still have the ability to perform the minimal lifting and carrying requirements of many sedentary unskilled occupations with the other hand.
 - BUT: The occupational base for an individual who must use an assistive device for balance because of significant involvement of both lower extremities may be significantly eroded.
- **Breaks:** The only breaks provided in an 8-hour day are a morning break, a lunch period, and an afternoon break at approximately 2-hour intervals.
- **Sit-Stand Option**
 - RFC assessment must be specific as to the frequency of the need to alternate sitting and standing.
 - The extent of erosion of the occupational base will depend on the frequency of alternating positions and the length of time needed to stand.
- **Need for Vocational Evidence**
 - When the extent of the erosion of the occupational base is not clear, the adjudicator may consult authoritative written resources
 - DOT
 - Selected Characteristics of Occupations (SCO)
 - Occupational Outlook Handbook
 - County Business Patterns
 - In more complex cases, vocational expert may be needed.

SSR 96-8p: Requirements for RFC Finding

- ***RFC is an assessment of an individual's ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis:***
 - "Regular and continuing basis" means 8 hours a day, 5 days a week, or an equivalent work schedule.

- *RFC assessment must identify the individual's functional limitations on a function-by-function basis, including the functions listed in 20 CFR 404.1545(b-d), which address physical, mental limitations, and environmental restrictions.*
- *RFC assessment include the effects of both severe and non-severe impairments.*
- *Medication side effects must be considered when formulating RFC.*
- *RFC must always consider medical source opinions, and where the assessment conflicts with an opinion, an explanation must be provided.*

SSR 96-6p: Opinion Evidence from the State Agency

- *Related Regulations: 20 CFR 404.1527 and 416.927 (Evaluating Opinion Evidence)*
- *ALJ Must Explain the Weight given to Medical and Psychological Consultants' Opinions.*
- *The regulations provide progressively more rigorous tests for weighing opinions as the ties between the source of the opinion and the individual become weaker. For example, the opinions of physicians or psychologists who do not have a treatment relationship with the individual are weighed by stricter standards, based to a greater degree on medical evidence, qualifications, and explanations for the opinions, than are required of treating sources.*
- *To find medical equivalence of a listing, the ALJ must obtain the opinion of a medical expert.*

SSR 00-4p: Evidence from Vocational Experts and Specialists

- *Adjudicators may not rely on evidence provided by a vocational specialist or other reliable source of occupational information if that evidence is based on underlying assumptions or definitions that are inconsistent with SSA's regulatory policies or definitions.*
- *The ALJ has a duty to ask the VE to explain any conflict between the DOT and the VE's testimony.*

- The adjudicator must resolve the conflict by determining if the explanation given is reasonable and provides a basis for relying on the vocational expert's testimony rather than the DOT information.
- The ALJ must explain in the decision how the conflict was resolved.
- ***A claimant who lacks transferable skills cannot perform semi-skilled work.***
 - Skills can only be acquired through past relevant work or in recent education that provides for direct entry into skilled work.
- ***Regulatory definitions of skill levels are controlling.***
 - Unskilled work has a specific vocational preparation (SVP) level of 1-2
 - Semi-skilled work has SVP of 3-4
 - Skilled work has SVP of 5-9

SSR 06-03p: Opinions from Other Medical Sources

- ***Related Regulations: 20 CFR 404.1527 and 416.927 (Evaluating Opinion Evidence)***
- ***Medical Sources who are not "Acceptable Medical Sources"***
 - Nurse practitioners
 - Physician assistants
 - Licensed clinical social workers
 - Chiropractors
- ***These Providers are Increasingly Responsible for Patient Care.***
- ***The factors for evaluating opinions of "acceptable medical sources" should be used to evaluate the opinions of these "other medical sources."***
 - Examining relationship: More weight given to an examining source
 - Treatment relationship: More weight given to a treating source
 - Length of relationship and frequency of examination
 - Nature and extent of the treatment relationship
 - Supportability, i.e., how well the source explains the opinion
 - Consistency with the record as a whole
 - Other factors: e.g., knowledge of disability programs or extent source is familiar with the other information in the record

- ***Depending on the facts of the case, then, it may be appropriate to give more weight to the opinion of a provider who is not an “acceptable medical source” if he or she has seen the individual more often than the treating source and has provided better supporting evidence and a better explanation for his or her opinion.***

SSR 96-7p: Evaluation of Subjective Symptoms and Credibility

- ***Related Regulations: 20 CFR 404.1529 and 416.929 (Symptom Evaluation)***
- ***The ALJ must make a finding about the underlying impairment and then consider whether the impairment could reasonably be expected to produce the claimant's symptoms.***
- ***The ALJ must evaluate the intensity, persistence, or functionally limiting effects of these symptoms.***
- ***When evaluating credibility, the ALJ must consider***
 - ***signs and lab findings***
 - ***diagnosis and prognosis***
 - ***medical opinions***
 - ***medical history***
 - ***treatment and response***
 - ***prior work record and efforts to work***
 - ***daily activities***
 - ***consistency of claimant's statements***
 - ***attempts to seek treatment for pain***
- ***The ALJ must provide specific reasons for the credibility finding.***
- ***Persistent efforts to obtain pain relief serve to enhance credibility.***
- ***Failure to obtain treatment must be considered in the context of all the evidence.***
- ***Allegations concerning the intensity and persistence of pain or other symptoms may not be disregarded solely because they are not substantiated by objective medical evidence.***

SSR 13-2p: Drug Addiction and Alcoholism (DAA)

- **Definition:** Though drug addiction and alcoholism are medically outdated terms, SSA continues to use them because they are used in the Act. DAA refers to Substance Use Disorders as defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V).
 - Substance Use Disorders (DAA) are maladaptive patterns of substance use that lead to clinically significant impairment or distress.
 - DAA does not include nicotine use disorders.
 - *DAA does not include addiction to, or use of, prescription medications taken as prescribed, including methadone and narcotic pain medications.*
 - A claimant's occasional maladaptive use or a history of occasional prior maladaptive use of alcohol or illegal drugs does not establish that the claimant has a medically determinable Substance Use Disorder (DAA).

- **Materiality:** An individual is not disabled if "drug addiction or alcoholism is a contributing factor material to the determination of disability." In other words, would the claimant be disabled if he or she stopped using drugs or alcohol? (20 C.F.R. 404.1535).
 - Materiality determination made only when both of the following are present:
 - there is evidence from an "acceptable medical source" (listed in 20 CFR 404.1513) establishing that DAA is a medically determinable impairment, AND
 - there is a determination that the claimant is disabled considering all of the medically determinable impairments (including the DAA)

- **Medically Determinable Impairment Requirements for DAA**
 - Objective medical evidence (i.e. signs, symptoms, or laboratory findings) from an acceptable medical source that supports a finding that a claimant has DAA. This requirement can be satisfied by clinical findings from an appropriate acceptable source based on examination of the claimant.
 - Evidence showing only that the claimant uses drugs or alcohol does not in itself establish the existence of a medically determinable Substance Use Disorder (DAA). The following types of evidence are *not* sufficient to establish DAA:
 - self-reported drug or alcohol use
 - an arrest for "driving while impaired"
 - a third-party report
 - a single drug or alcohol test

- **However, such evidence may trigger the development of evidence about DAA.*

- ***Periods of Abstinence***

- Evidence from a period of abstinence is the best evidence for determining whether a *physical* impairment would improve to the point of nondisability (e.g. alcoholic hepatitis, fatty liver, alcoholic cardiomyopathy).
- Sometimes, abstinence may result in a worsening of the symptoms and signs attributable to the other impairment: e.g. increased anxiety or pain.
- To support a finding that *DAA* is material, SSA must have evidence in the record that establishes that a claimant with a *co-occurring mental disorder* would not be disabled in the absence of *DAA*. Unlike cases involving physical impairments, SSA does not permit adjudicators to rely exclusively on medical expertise and the nature of a claimant's mental disorder.
- Given the foregoing principles, a single hospitalization or other inpatient intervention is not sufficient to establish that *DAA* is material when there is evidence that a claimant has a disabling co-occurring mental disorder. SSA needs evidence from outside of such highly structured treatment settings demonstrating that the claimant's co-occurring mental disorder has improved, or would improve, with abstinence.
- In addition, a record of multiple hospitalizations, emergency department visits, or other treatment for the co-occurring mental disorder—with or without treatment for *DAA*—is an indication that *DAA* may not be material even if the claimant is discharged in improved condition after each intervention.
- There is no requirement that a claimant have a period of abstinence to establish disability.

- ***Failure to Follow Prescribed Treatment*** is *not* an issue when considering *DAA* because "we know of no treatments for *DAA* that are so sufficiently and uniformly effective that they could satisfy our requirement that the prescribed treatment be clearly expected to restore the ability to work."

- ***Other DAA Considerations***

- ALJs must explain the rationale for materiality determinations so that subsequent reviewers are able to understand the basis for the finding. A single statement that *DAA* is or is not material to the determination of disability is not sufficient.
- Adjudicators must not presume that all claimants with *DAA* are inherently less credible than other claimants.

SSR 96-4p

EFFECTIVE/PUBLICATION DATE: 07/02/96

SSR 96-4p: POLICY INTERPRETATION RULING TITLES II AND XVI: SYMPTOMS, MEDICALLY DETERMINABLE PHYSICAL AND MENTAL IMPAIRMENTS, AND EXERTIONAL AND NONEXERTIONAL LIMITATIONS

PURPOSE: The purpose of this Ruling is to clarify longstanding policy of the Social Security Administration on the evaluation of symptoms in the adjudication of claims for disability benefits under title II and title XVI of the Social Security Act (the Act). In particular, this Ruling emphasizes that:

1. A "symptom" is not a "medically determinable physical or mental impairment" and no symptom by itself can establish the existence of such an impairment.
2. In the absence of a showing that there is a "medically determinable physical or mental impairment," an individual must be found not disabled at step 2 of the sequential evaluation process. No symptom or combination of symptoms can be the basis for a finding of disability, no matter how genuine the individual's complaints may appear to be, unless there are medical signs and laboratory findings demonstrating the existence of a medically determinable physical or mental impairment.
3. The terms "exertional" and "nonexertional" in the regulations describe types of functional limitations or restrictions resulting from a medically determinable physical or mental impairment; i.e., exertional limitations affect an individual's ability to meet the strength demands of jobs, and nonexertional limitations or restrictions affect an individual's ability to meet the nonstrength demands of jobs. Therefore, a symptom in itself is neither exertional nor nonexertional. Rather, it is the nature of the functional limitations or restrictions caused by an impairment-related symptom that determines whether the impact of the symptom is exertional, nonexertional, or both.
4. The application of the medical-vocational rules in appendix 2 of subpart P of Regulations No. 4 depends on the nature of the limitations and restrictions imposed by an individual's medically determinable physical or mental impairment(s), and any related symptoms.

CITATIONS (AUTHORITY): Sections 216(i), 223(d) and 1614(a)(3) of the Social Security Act, as amended; Regulations No. 4, sections 404.1505, 404.1508, 404.1520, 404.1528(a), 404.1529, 404.1569a and subpart P, appendix 2; and Regulations No. 16, sections 416.905, 416.908, 416.920, 416.924, 416.928(a), 416.929 and 416.969a.

POLICY INTERPRETATION:

Need to Establish the Existence of a Medically Determinable Physical or Mental Impairment

The Act defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.^[1] An "impairment" must result from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. Although the regulations provide that the existence of a medically determinable physical or mental impairment must be established by medical evidence consisting of signs, symptoms,^[2] and laboratory findings, the regulations further provide that under no circumstances may the existence of an impairment be established on the basis of symptoms alone. Thus, regardless of how many symptoms an individual alleges, or how genuine the individual's complaints may appear to be, the existence of a medically determinable physical or mental impairment cannot be established in the absence of objective medical abnormalities; i.e., medical signs and laboratory findings.

No symptom or combination of symptoms by itself can constitute a medically determinable impairment. In claims in which there are no medical signs or laboratory findings to substantiate the existence of a medically determinable physical or mental impairment, the individual must be found not disabled at step 2 of the sequential evaluation process set out in 20 CFR 404.1520 and 416.920 (or, for an individual under age 18 claiming disability benefits under title XVI, 20 CFR 416.924).

In addition, 20 CFR 404.1529 and 416.929 provide that an individual's symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect the individual's ability to do basic work activities (or, for an individual under age 18 claiming disability benefits under title XVI, to function independently, appropriately, and effectively in an age-appropriate manner) unless medical signs and laboratory findings show that there is a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the symptom(s) alleged.

Exertional and Nonexertional Limitations

Once the existence of a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the pain or other symptoms alleged has been established on the basis of medical signs and laboratory findings, allegations about the intensity and persistence of the symptoms must be considered with the objective medical abnormalities, and all other evidence in the case record, in evaluating the functionally limiting effects of the impairment(s). In addition, for determinations or decisions at step 5 of the sequential

evaluation process for individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI, 20 CFR 404.1569a and 416.969a explain that an individual's impairment(s) and related symptoms, such as pain, may cause limitations of function or restrictions that limit an individual's ability to meet certain demands of jobs. These sections divide limitations or restrictions into three classifications: Exertional, nonexertional, and combined exertional and nonexertional. Exertional limitations or restrictions affect an individual's ability to meet the seven strength demands of jobs (sitting, standing, walking, lifting, carrying, pushing, and pulling), while nonexertional limitations or restrictions affect an individual's ability to meet the nonstrength demands of jobs (all physical limitations and restrictions that are not reflected in the seven strength demands, and mental limitations and restrictions). The nature of the limitations or restrictions affects whether the rules in appendix 2 to subpart P of Regulations No. 4 may be used to direct a decision or must be used as a framework for decisionmaking.

Likewise, under the regulations, symptoms in themselves are neither exertional nor nonexertional. An individual's symptoms, however, can cause limitations or restrictions that are classified as exertional, nonexertional, or a combination of both. For example, pain can result in an exertional limitation if it limits the ability to perform one of the strength activities (e.g., lifting), or a nonexertional limitation if it limits the ability to perform a nonstrength activity (e.g., fingering or concentrating). It is the nature of the limitations or restrictions resulting from the symptom (i.e., exertional, nonexertional, or both) that will determine whether the medical-vocational rules in appendix 2 may be used to direct a decision or must be used as a framework for decisionmaking. For additional discussion of this longstanding policy, see [SSR 96-8p](#), "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims."

EFFECTIVE DATE: This Ruling is effective on the date of its publication in the Federal Register.

CROSS-REFERENCES: [SSR 96-3p](#), "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe," [SSR 96-7p](#), "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements," and [SSR 96-8p](#), "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims;" and Program Operations Manual System, sections DI 24501.020, DI 24515.061, and DI 24515.063.

^[1] This definition of disability applies to individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI. For title XVI, an individual under age 18 will be considered disabled if he or she is suffering from a medically determinable physical or mental impairment of comparable severity to an impairment that would disable an adult.

^[2] 20 CFR 404.1528, 404.1529, 416.928, and 416.929 provide that symptoms, such as pain, fatigue, shortness of breath, weakness or nervousness, are an individual's own perception or description of the impact of his or her physical or mental impairment(s). (20 CFR 416.928 further provides that, for an individual under age 18 who is unable to adequately describe his

or her symptom(s), the adjudicator will accept as a statement of this symptom(s) the description given by the person most familiar with the individual, such as a parent, other relative, or guardian.) However, when any of these manifestations is an anatomical, physiological, or psychological abnormality that can be shown by medically acceptable clinical diagnostic techniques, it represents a medical "sign" rather than a "symptom."

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SSR 96-7p

EFFECTIVE/PUBLICATION DATE: 07/02/96

SSR 96-7p: POLICY INTERPRETATION RULING

TITLES II AND XVI: EVALUATION OF SYMPTOMS IN DISABILITY CLAIMS: ASSESSING THE CREDIBILITY OF AN INDIVIDUAL'S STATEMENTS

This Ruling supersedes Social Security Ruling ([SSR](#)) [95-5p](#), "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Residual Functional Capacity and Individualized Functional Assessments and Explaining Conclusions Reached."

PURPOSE: The purpose of this Ruling is to clarify when the evaluation of symptoms, including pain, under [20 CFR 404.1529](#) and [416.929](#) requires a finding about the credibility of an individual's statements about pain or other symptom(s) and its functional effects; to explain the factors to be considered in assessing the credibility of the individual's statements about symptoms; and to state the importance of explaining the reasons for the finding about the credibility of the individual's statements in the disability determination or decision.^[1] In particular, this Ruling emphasizes that:

1. No symptom or combination of symptoms can be the basis for a finding of disability, no matter how genuine the individual's complaints may appear to be, unless there are medical signs and laboratory findings demonstrating the existence of a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the symptoms.
2. When the existence of a medically determinable physical or mental impairment(s) that could reasonably be expected to produce the symptoms has been established, the intensity, persistence, and functionally limiting effects of the symptoms must be evaluated to determine the extent to which the symptoms affect the individual's ability to do basic work activities. This requires the adjudicator to make a finding about the credibility of the individual's statements about the symptom(s) and its functional effects.
3. Because symptoms, such as pain, sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, the adjudicator must carefully consider the individual's statements about symptoms with the rest of the relevant evidence in the case record in reaching a conclusion about the credibility of the individual's statements if a disability determination or decision that is fully favorable to

- the individual cannot be made solely on the basis of objective medical evidence.
4. In determining the credibility of the individual's statements, the adjudicator must consider the entire case record, including the objective medical evidence, the individual's own statements about symptoms, statements and other information provided by treating or examining physicians or psychologists and other persons about the symptoms and how they affect the individual, and any other relevant evidence in the case record. An individual's statements about the intensity and persistence of pain or other symptoms or about the effect the symptoms have on his or her ability to work may not be disregarded solely because they are not substantiated by objective medical evidence.
 5. It is not sufficient for the adjudicator to make a single, conclusory statement that "the individual's allegations have been considered" or that "the allegations are (or are not) credible." It is also not enough for the adjudicator simply to recite the factors that are described in the regulations for evaluating symptoms. The determination or decision must contain specific reasons for the finding on credibility, supported by the evidence in the case record, and must be sufficiently specific to make clear to the individual and to any subsequent reviewers the weight the adjudicator gave to the individual's statements and the reasons for that weight.

CITATIONS (AUTHORITY): [Sections 216\(i\), 223\(d\), and 1614\(a\)\(3\)](#) of the Social Security Act, as amended; Regulations No. 4, sections [404.1528\(a\)](#), [404.1529](#), and [404.1569a](#) ; and Regulations No. 16, sections [416.928\(a\)](#), [416.929](#), and [416.969a](#).

INTRODUCTION: A symptom is an individual's own description of his or her physical or mental impairment(s).^[2] Under the regulations, an individual's statement(s) about his or her symptoms is not enough in itself to establish the existence of a physical or mental impairment or that the individual is disabled.

The regulations describe a two-step process for evaluating symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness:

- First, the adjudicator must consider whether there is an underlying medically determinable physical or mental impairment(s)--i.e., an impairment(s) that can be shown by medically acceptable clinical and laboratory diagnostic techniques--that could reasonably be expected to produce the individual's pain or other symptoms.^[3] The finding that an individual's impairment(s) could reasonably be expected to produce the individual's pain or other symptoms does not involve a determination as to the intensity, persistence, or functionally limiting effects of the individual's symptoms. If there is no medically determinable physical or mental impairment(s), or if there is a medically determinable physical or mental impairment(s) but the impairment(s) could not reasonably be expected to produce the individual's pain or other symptoms, the symptoms cannot be found to affect the individual's ability to do basic work activities.
- Second, once an underlying physical or mental impairment(s) that could reasonably be expected to produce the individual's pain or other symptoms has been shown, the adjudicator must evaluate the intensity, persistence, and limiting effects of the individual's symptoms to determine the extent to which the symptoms limit the

individual's ability to do basic work activities. For this purpose, whenever the individual's statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, the adjudicator must make a finding on the credibility of the individual's statements based on a consideration of the entire case record. This includes the medical signs and laboratory findings, the individual's own statements about the symptoms, any statements and other information provided by treating or examining physicians or psychologists and other persons about the symptoms and how they affect the individual, and any other relevant evidence in the case record. This requirement for a finding on the credibility of the individual's statements about symptoms and their effects is reflected in [20 CFR 404.1529\(c\)\(4\)](#) and [416.929\(c\)\(4\)](#). These provisions of the regulations provide that an individual's symptoms, including pain, will be determined to diminish the individual's capacity for basic work activities to the extent that the individual's alleged functional limitations and restrictions due to symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence in the case record.

When additional information is needed to assess the credibility of the individual's statements about symptoms and their effects, the adjudicator must make every reasonable effort to obtain available information that could shed light on the credibility of the individual's statements. In recognition of the fact that an individual's symptoms can sometimes suggest a greater level of severity of impairment than can be shown by the objective medical evidence alone, [20 CFR 404.1529\(c\)](#) and [416.929\(c\)](#) describe the kinds of evidence, including the factors below, that the adjudicator must consider in addition to the objective medical evidence when assessing the credibility of an individual's statements:

1. The individual's daily activities;
2. The location, duration, frequency, and intensity of the individual's pain or other symptoms;
3. Factors that precipitate and aggravate the symptoms;
4. The type, dosage, effectiveness, and side effects of any medication the individual takes or has taken to alleviate pain or other symptoms;
5. Treatment, other than medication, the individual receives or has received for relief of pain or other symptoms;
6. Any measures other than treatment the individual uses or has used to relieve pain or other symptoms (e.g., lying flat on his or her back, standing for 15 to 20 minutes every hour, or sleeping on a board); and
7. Any other factors concerning the individual's functional limitations and restrictions due to pain or other symptoms.

Once the adjudicator has determined the extent to which the individual's symptoms limit the individual's ability to do basic work activities by making a finding on the credibility of the individual's statements, the impact of the symptoms on the individual's ability to function must be considered along with the objective medical and other evidence, first in determining whether the individual's impairment or combination of impairments is "severe" at step 2 of the sequential evaluation process for determining disability and, as necessary, at each subsequent step of the process.^[4] (See [SSR 96-3p](#), "Titles II and XVI: Considering Allegations of Pain and

Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe," and [SSR 96-8p](#), "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims.")

POLICY INTERPRETATION: A symptom is an individual's own description of his or her physical or mental impairment(s). Once the existence of a medically determinable physical or mental impairment(s) that could reasonably be expected to produce pain or other symptoms has been established, adjudicators must recognize that individuals may experience their symptoms differently and may be limited by their symptoms to a greater or lesser extent than other individuals with the same medical impairments and the same medical signs and laboratory findings. Because symptoms, such as pain, sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, any statements of the individual concerning his or her symptoms must be carefully considered if a fully favorable determination or decision cannot be made solely on the basis of objective medical evidence.

If an individual's statements about pain or other symptoms are not substantiated by the objective medical evidence, the adjudicator must consider all of the evidence in the case record, including any statements by the individual and other persons concerning the individual's symptoms. The adjudicator must then make a finding on the credibility of the individual's statements about symptoms and their functional effects.

Credibility

In general, the extent to which an individual's statements about symptoms can be relied upon as probative evidence in determining whether the individual is disabled depends on the credibility of the statements. In basic terms, the credibility of an individual's statements about pain or other symptoms and their functional effects is the degree to which the statements can be believed and accepted as true. When evaluating the credibility of an individual's statements, the adjudicator must consider the entire case record and give specific reasons for the weight given to the individual's statements.

The finding on the credibility of the individual's statements cannot be based on an intangible or intuitive notion about an individual's credibility. The reasons for the credibility finding must be grounded in the evidence and articulated in the determination or decision. It is not sufficient to make a conclusory statement that "the individual's allegations have been considered" or that "the allegations are (or are not) credible." It is also not enough for the adjudicator simply to recite the factors that are described in the regulations for evaluating symptoms. The determination or decision must contain specific reasons for the finding on credibility, supported by the evidence in the case record, and must be sufficiently specific to make clear to the individual and to any subsequent reviewers the weight the adjudicator gave to the individual's statements and the reasons for that weight. This documentation is necessary in order to give the individual a full and fair review of his or her claim, and in order to ensure a well-reasoned determination or decision.

In making a finding about the credibility of an individual's statements, the adjudicator need not totally accept or totally reject the individual's statements. Based on a consideration of all of the evidence in the case record, the adjudicator may find all, only some, or none of an individual's allegations to be credible. The adjudicator may also find an individual's statements, such as

statements about the extent of functional limitations or restrictions due to pain or other symptoms, to be credible to a certain degree. For example, an adjudicator may find credible an individual's statement that the abilities to lift and carry are affected by symptoms, but find only partially credible the individual's statements as to the extent of the functional limitations or restrictions due to symptoms; i.e., that the individual's abilities to lift and carry are compromised, but not to the degree alleged. Conversely, an adjudicator may find credible an individual's statement that symptoms limit his or her ability to concentrate, but find that the limitation is greater than that stated by the individual.

Moreover, a finding that an individual's statements are not credible, or not wholly credible, is not in itself sufficient to establish that the individual is not disabled. All of the evidence in the case record, including the individual's statements, must be considered before a conclusion can be made about disability.

Factors in Evaluating Credibility

Assessment of the credibility of an individual's statements about pain or other symptoms and about the effect the symptoms have on his or her ability to function must be based on a consideration of all of the evidence in the case record. This includes, but is not limited to:

- The medical signs and laboratory findings;
- Diagnosis, prognosis, and other medical opinions provided by treating or examining physicians or psychologists and other medical sources; and
- Statements and reports from the individual and from treating or examining physicians or psychologists and other persons about the individual's medical history, treatment and response, prior work record and efforts to work, daily activities, and other information concerning the individual's symptoms and how the symptoms affect the individual's ability to work.

The adjudicator must also consider any observations about the individual recorded by Social Security Administration (SSA) employees during interviews, whether in person or by telephone. In instances where the individual attends an administrative proceeding conducted by the adjudicator, the adjudicator may also consider his or her own recorded observations of the individual as part of the overall evaluation of the credibility of the individual's statements.

Consideration of the individual's statements and the statements and reports of medical sources and other persons with regard to the seven factors listed in the regulations,^[5] along with any other relevant information in the case record, including the information described above, will provide the adjudicator with an overview of the individual's subjective complaints. The adjudicator must then evaluate all of this information and draw appropriate inferences and conclusions about the credibility of the individual's statements.

The following sections provide additional guidelines for the adjudicator to consider when evaluating the credibility of an individual's statements.

Consistency

One strong indication of the credibility of an individual's statements is their consistency, both internally and with other information in the case record. The adjudicator must consider such factors as:

- The degree to which the individual's statements are consistent with the medical signs and laboratory findings and other information provided by medical sources, including information about medical history and treatment.
- The consistency of the individual's own statements. The adjudicator must compare statements made by the individual in connection with his or her claim for disability benefits with statements he or she made under other circumstances, when such information is in the case record. Especially important are statements made to treating or examining medical sources and to the "other sources" defined in [20 CFR 404.1513\(e\)](#) and [416.913\(e\)](#). The adjudicator must also look at statements the individual made to SSA at each prior step of the administrative review process and in connection with any concurrent claim or, when available, prior claims for disability benefits under titles II and XVI. Likewise, the case record may contain statements the individual made in connection with claims for other types of disability benefits, such as workers' compensation, benefits under programs of the Department of Veterans Affairs, or private insurance benefits. However, the lack of consistency between an individual's statements and other statements that he or she has made at other times does not necessarily mean that the individual's statements are not credible. Symptoms may vary in their intensity, persistence, and functional effects, or may worsen or improve with time, and this may explain why the individual does not always allege the same intensity, persistence, or functional effects of his or her symptoms. Therefore, the adjudicator will need to review the case record to determine whether there are any explanations for any variations in the individual's statements about symptoms and their effects.
- The consistency of the individual's statements with other information in the case record, including reports and observations by other persons concerning the individual's daily activities, behavior, and efforts to work. This includes any observations recorded by SSA employees in interviews and observations recorded by the adjudicator in administrative proceedings.

Medical Evidence

Symptoms cannot be measured objectively through clinical or laboratory diagnostic techniques; however, their effects can often be clinically observed. The regulations at [20 CFR 404.1529\(c\)\(2\)](#) and [416.929\(c\)\(2\)](#) provide that objective medical evidence "is a useful indicator to assist us in making reasonable conclusions about the intensity and persistence of" an individual's symptoms and the effects those symptoms may have on the individual's ability to function. The examples in the regulations (reduced joint motion, muscle spasm, sensory deficit, and motor disruption) illustrate findings that may result from, or be associated with, the symptom of pain. When present, these findings tend to lend credibility to an individual's allegations about pain or other symptoms and their functional effects.

When there are medical signs and laboratory findings demonstrating the existence of a medically determinable physical or mental impairment(s) that could reasonably be expected to

produce the pain or other symptoms, the adjudicator must always attempt to obtain any available objective medical evidence concerning the intensity and persistence of the pain or other symptoms, and, when such evidence is obtained, must consider it in evaluating the individual's statements. *However, allegations concerning the intensity and persistence of pain or other symptoms may not be disregarded solely because they are not substantiated by objective medical evidence.* A report of negative findings from the application of medically acceptable clinical and laboratory diagnostic techniques is one of the many factors that appropriately are to be considered in the overall assessment of credibility. However, the absence of objective medical evidence supporting an individual's statements about the intensity and persistence of pain or other symptoms is only one factor that the adjudicator must consider in assessing an individual's credibility and must be considered in the context of all the evidence.

Over time, there may also be medical signs and laboratory findings that, though not directly supporting or refuting statements about the intensity or persistence of pain or other symptoms, demonstrate worsening or improvement of the underlying medical condition. Such signs and findings may also help an adjudicator to draw appropriate inferences about the credibility of an individual's statements.

Apart from the medical signs and laboratory findings, the medical evidence, especially a longitudinal medical record, can be extremely valuable in the adjudicator's evaluation of an individual's statements about pain or other symptoms. Important information about symptoms recorded by medical sources and reported in the medical evidence may include:

- Onset, description of the character and location of the symptoms, precipitating and aggravating factors, frequency and duration, course over time (e.g., whether worsening, improving, or static), and daily activities. Very often, this information will have been obtained by the medical source from the individual and may be compared with the individual's other statements in the case record. However, the evidence provided by a medical source may also contain medical opinions of the source about the individual's symptoms and their effects, and such opinions must be weighed applying the factors in [20 CFR 404.1527](#) and [416.927](#).
- A longitudinal record of any treatment and its success or failure, including any side effects of medication.
- Indications of other impairments, such as potential mental impairments, that could account for the allegations.

Although longitudinal records showing regular contact with a treating source are the most desirable, longitudinal medical records can be valuable even when they are not treating source records. For example, an individual may receive treatment at a clinic and see different physicians, but the clinic records may still show a longitudinal history of complaints and attempts at relief.

Medical Treatment History

In general, a longitudinal medical record demonstrating an individual's attempts to seek medical treatment for pain or other symptoms and to follow that treatment once it is prescribed

lends support to an individual's allegations of intense and persistent pain or other symptoms for the purposes of judging the credibility of the individual's statements. Persistent attempts by the individual to obtain relief of pain or other symptoms, such as by increasing medications, trials of a variety of treatment modalities in an attempt to find one that works or that does not have side effects, referrals to specialists, or changing treatment sources may be a strong indication that the symptoms are a source of distress to the individual and generally lend support to an individual's allegations of intense and persistent symptoms.^[6]

On the other hand, the individual's statements may be less credible if the level or frequency of treatment is inconsistent with the level of complaints, or if the medical reports or records show that the individual is not following the treatment as prescribed and there are no good reasons for this failure. However, the adjudicator must not draw any inferences about an individual's symptoms and their functional effects from a failure to seek or pursue regular medical treatment without first considering any explanations that the individual may provide, or other information in the case record, that may explain infrequent or irregular medical visits or failure to seek medical treatment. The adjudicator may need to recontact the individual or question the individual at the administrative proceeding in order to determine whether there are good reasons the individual does not seek medical treatment or does not pursue treatment in a consistent manner. The explanations provided by the individual may provide insight into the individual's credibility. For example:

- The individual's daily activities may be structured so as to minimize symptoms to a tolerable level or eliminate them entirely, avoiding physical or mental stressors that would exacerbate the symptoms. The individual may be living with the symptoms, seeing a medical source only as needed for periodic evaluation and renewal of medications.
- The individual's symptoms may not be severe enough to prompt the individual to seek ongoing medical attention or may be relieved with over-the-counter medications.
- The individual may not take prescription medication because the side effects are less tolerable than the symptoms.
- The individual may be unable to afford treatment and may not have access to free or low-cost medical services.
- The individual may have been advised by a medical source that there is no further, effective treatment that can be prescribed and undertaken that would benefit the individual.
- Medical treatment may be contrary to the teaching and tenets of the individual's religion.

Other Sources of Information

Other sources may provide information from which inferences and conclusions may be drawn about the credibility of the individual's statements. Such sources may provide information about the seven factors listed in the regulations and may be especially helpful in establishing a longitudinal record. Examples of such sources include public and private agencies, other practitioners, and nonmedical sources such as family and friends.

Observations of the Individual

In instances in which the adjudicator has observed the individual, the adjudicator is not free to accept or reject the individual's complaints solely on the basis of such personal observations, but should consider any personal observations in the overall evaluation of the credibility of the individual's statements.

In evaluating the credibility of the individual's statements, the adjudicator must also consider any observations recorded by SSA personnel who previously interviewed the individual, whether in person or by telephone.

Consideration of Findings by State Agency
and Other Program Physicians and Psychologists
at the Administrative Law Judge and
Appeals Council Levels of Administrative Review

Under [20 CFR 404.1527\(f\)](#) and [416.927\(f\)](#), administrative law judges and the Appeals Council are required to consider findings of fact by State agency medical and psychological consultants and other program physicians and psychologists about the existence and severity of an individual's impairment(s), including the existence and severity of any symptoms, as opinions of nonexamining physicians and psychologists. Administrative law judges and the Appeals Council are not bound by any State agency findings, but they may not ignore these opinions and must explain the weight given to the opinions in their decisions. Therefore, if the case record includes a finding by a State agency medical or psychological consultant or other program physician or psychologist on the credibility of the individual's statements about limitations or restrictions due to symptoms, the adjudicator at the administrative law judge or Appeals Council level of administrative review must consider and weigh this opinion of a nonexamining source under the applicable rules in [20 CFR 404.1527](#) and [416.927](#) and must explain the weight given to the opinion in the decision. (See [SSR 96-6p](#), "Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.")

EFFECTIVE DATE: This Ruling is effective on the date of its publication in the *Federal Register*.

CROSS-REFERENCES: [SSR 96-3p](#), "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe," [SSR 96-8p](#), "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims," [SSR 96-6p](#), "Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence;" and Program Operations Manual System, sections DI 24515.061 and DI 24515.064.B.3.

^[1] For clarity, the discussions in this Ruling refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits

under title XVI. However, the same basic principles with regard to determining whether statements about symptoms are credible also apply to claims of individuals under age 18 claiming disability benefits under title XVI.

[2] For an individual under age 18 claiming disability benefits under title XVI who is unable to adequately describe his or her symptom(s), the adjudicator will accept as a statement of this symptom(s) the description given by the person most familiar with the individual, such as a parent, other relative, or guardian. [20 CFR 416.928\(a\)](#).

[3] The adjudicator must develop evidence regarding the possibility of a medically determinable mental impairment when the record contains information to suggest that such an impairment exists, and the individual alleges pain or other symptoms, but the medical signs and laboratory findings do not substantiate any physical impairment(s) capable of producing the pain or other symptoms.

[4] In determining whether the impairment(s) of an individual claiming disability benefits under title II or an individual age 18 or older claiming disability benefits under title XVI is medically equivalent to a listed impairment in [appendix 1 of subpart P of 20 CFR Part 404](#), the adjudicator will not substitute allegations of pain or other symptoms for a missing or deficient sign or laboratory finding to raise the severity of the individual's impairment(s) to that of a listed impairment. [20 CFR 404.1529\(d\)\(3\)](#) and [416.929\(d\)\(3\)](#). In determining whether the impairment(s) of an individual under age 18 claiming disability benefits under title XVI is equivalent to a listed impairment, if the adjudicator cannot find equivalence based on medical evidence only, the adjudicator will consider pain or another symptom(s) under [20 CFR 416.926a\(b\)\(3\)](#) in determining whether the individual has an impairment(s) that results in overall functional limitations that are the same as the disabling functional consequences of a listed impairment. [20 CFR 416.929\(d\)\(3\)](#).

[5] The seven factors are also set out in the "Introduction," above.

[6] The adjudicator must also remember that medical treatment need not always be specifically for the relief of a symptom. Often, treatment will be aimed at ameliorating the underlying medical condition which, in turn, may result in improvement in symptoms. The treatment may also cause symptoms as a side effect.

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