

whole, including other medical opinions, and any explanation for the opinion provided by the State agency medical or psychological consultant or other program physician or psychologist. The adjudicator must also consider all other factors that could have a bearing on the weight to which an opinion is entitled, including any specialization of the State agency medical or psychological consultant.

In appropriate circumstances, opinions from State agency medical and psychological consultants and other program physicians and psychologists may be entitled to greater weight than the opinions of treating or examining sources. For example, the opinion of a State agency medical or psychological consultant or other program physician or psychologist may be entitled to greater weight than a treating source's medical opinion if the State agency medical or psychological consultant's opinion is based on a review of a complete case record that includes a medical report from a specialist in the individual's particular impairment which provides more detailed and comprehensive information than what was available to the individual's treating source.

The following additional guidelines apply at the administrative law judge and Appeals Council levels to opinions about equivalence to a listing in the Listing of Impairments and RFC assessments, issues that are reserved to the Commissioner in 20 CFR 404.1527(e) and 416.927(e). (See also SSR 96-5p, "Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner.")

Medical Equivalence to an Impairment in the Listing of Impairments.

The administrative law judge or Appeals Council is responsible for deciding the ultimate legal question whether a listing is met or equaled. As trier of the facts, an administrative law judge or the Appeals Council is not bound by a finding by a State agency medical or psychological consultant or other program physician or psychologist as to whether an individual's impairment(s) is equivalent in severity to any impairment in the Listing of Impairments. However, longstanding policy requires that the judgment of a physician (or psychologist) designated by the Commissioner on the issue of equivalence on the evidence before the administrative law judge or the Appeals Council must be received into the record as expert opinion evidence and given appropriate weight.

The signature of a State agency medical or psychological consultant on

an SSA-831-U5 (Disability Determination and Transmittal Form) or SSA-832-U5 or SSA-833-U5 (Cessation or Continuance of Disability or Blindness) ensures that consideration by a physician (or psychologist) designated by the Commissioner has been given to the question of medical equivalence at the initial and reconsideration levels of administrative review. Other documents, including the Psychiatric Review Technique Form and various other documents on which medical and psychological consultants may record their findings, may also ensure that this opinion has been obtained at the first two levels of administrative review.

When an administrative law judge or the Appeals Council finds that an individual's impairment(s) is not equivalent in severity to any listing, the requirement to receive expert opinion evidence into the record may be satisfied by any of the foregoing documents signed by a State agency medical or psychological consultant. However, an administrative law judge and the Appeals Council must obtain an updated medical opinion from a medical expert² in the following circumstances:

- When no additional medical evidence is received, but in the opinion of the administrative law judge or the Appeals Council the symptoms, signs, and laboratory findings reported in the case record suggest that a judgment of equivalence may be reasonable; or
- When additional medical evidence is received that in the opinion of the administrative law judge or the Appeals Council may change the State agency medical or psychological consultant's finding that the impairment(s) is not equivalent in severity to any impairment in the Listing of Impairments.

When an updated medical judgment as to medical equivalence is required at the administrative law judge level in either of the circumstances above, the administrative law judge must call on a medical expert. When an updated medical judgment as to medical equivalence is required at the Appeals Council level in either of the circumstances above, the Appeals Council must call on the services of its medical support staff.

² The term "medical expert" is being used to refer to the source of expert medical opinion designated as a "medical advisor" in 20 CFR 404.1512(b)(6), 404.1527(f), 416.912(b)(6), and 416.927(f). This term is being used because it describes the role of the "medical expert" as an expert witness rather than an advisor in the course of an administrative law judge hearing.

Assessment of RFC

Although the administrative law judge and the Appeals Council are responsible for assessing an individual's RFC at their respective levels of administrative review, the administrative law judge or Appeals Council must consider and evaluate any assessment of the individual's RFC by a State agency medical or psychological consultant and by other program physicians or psychologists. At the administrative law judge and Appeals Council levels, RFC assessments by State agency medical or psychological consultants or other program physicians or psychologists are to be considered and addressed in the decision as medical opinions from nonexamining sources about what the individual can still do despite his or her impairment(s). Again, they are to be evaluated considering all of the factors set out in the regulations for considering opinion evidence.

Effective Date: This Ruling is effective on the date of its publication in the Federal Register.

Cross-References: SSR 96-5p, "Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner;" Program Operations Manual System, section DI 24515.007; and Hearings, Appeals, and Litigation Law Manual, section I-5-310.

[FR Doc. 96-16689 Filed 7-1-96; 8:45 am]

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Social Security Ruling (SSR) 96-3p. Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment Is Severe

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 96-3p. This Ruling restates and clarifies the longstanding policies of the Social Security Administration for considering allegations of pain or other symptoms in determining whether individuals claiming disability benefits under Title II, Federal Old-Age, Survivors, and Disability Insurance Benefits, and Title XVI, Supplemental Security Income for the Aged, Blind, and Disabled, of the Social Security Act have a "severe" medically determinable physical or mental impairment(s).

EFFECTIVE DATE: July 2, 1996.

FOR FURTHER INFORMATION CONTACT:

Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the Federal Register to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

Dated: June 7, 1996.

Shirley S. Chater,
Commissioner of Social Security.

Policy Interpretation Ruling—Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe

Purpose

To restate and clarify the longstanding policies of the Social Security Administration for considering allegations of pain or other symptoms in determining whether individuals claiming disability benefits under title II and title XVI of the Social Security Act (the Act) have a "severe" medically determinable physical or mental impairment(s). In particular, the purpose of this Ruling is to restate and clarify the policy that:

1. The evaluation of whether an impairment(s) is "severe" that is done at

step 2 of the applicable sequential evaluation process set out in 20 CFR 404.1520, 416.920, or 416.924 requires an assessment of the functionally limiting effects of an impairment(s) on an individual's ability to do basic work activities or, for an individual under age 18 claiming disability benefits under title XVI, to do age-appropriate activities; and

2. An individual's symptoms may cause limitations and restrictions in functioning which, when considered at step 2, may require a finding that there is a "severe" impairment(s) and a decision to proceed to the next step of sequential evaluation.

Citations (Authority): Sections 216(i), 223(d), and 1614(a)(3) of the Social Security Act, as amended; Regulations No. 4, sections 404.1508, 404.1520(a) and (c), 404.1521, 404.1523, 404.1528, and 404.1529; and Regulations No. 16, sections 416.908, 416.920(a) and (c), 416.921, 416.923, 416.924(b) and (d), 416.924d, 416.928, and 416.929.

Introduction

Note: For clarity, the following discussions 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 principles regarding the evaluation of symptoms and their effects apply in determining whether the impairment(s) of an individual who is under age 18 and claiming title XVI disability benefits is severe under 20 CFR 416.924(d). For such an individual, an impairment(s) is considered "not severe" if it is a slight abnormality(ies) that causes no more than minimal limitation in the individual's ability to function independently, appropriately, and effectively in an age-appropriate manner.

To be found disabled, an individual must have a medically determinable "severe" physical or mental impairment or combination of impairments that meets the duration requirement. At step 2 of the sequential evaluation process, an impairment or combination of impairments is considered "severe" if it significantly limits an individual's physical or mental abilities to do basic work activities; an impairment(s) that is "not severe" must be a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the ability to do basic work activities. (See SSR 85-28, "Titles II and XVI: Medical Impairments That Are Not Severe," C.E. 1981-1985, p. 394.)

Symptoms, such as pain, fatigue, shortness of breath, weakness, or

nervousness, will not be found to affect an individual's ability to do basic work activities unless the individual first establishes by objective medical evidence (i.e., signs and laboratory findings) that he or she has a medically determinable physical or mental impairment(s) and that the impairment(s) could reasonably be expected to produce the alleged symptom(s). (See SSR 96-4p, "Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations.") The finding that an individual's impairment(s) could reasonably be expected to produce the alleged symptom(s) does not involve a determination as to the intensity, persistence, or functionally limiting effects of the symptom(s). However, once the requisite relationship between the medically determinable impairment(s) and the alleged symptom(s) is established, the intensity, persistence, and limiting effects of the symptom(s) must be considered along with the objective medical and other evidence in determining whether the impairment or combination of impairments is severe.

Policy Interpretation

In determining the severity of an impairment(s) at step 2 of the sequential evaluation process set out in 20 CFR 404.1520 and 416.920, evidence about the functionally limiting effects of an individual's impairment(s) must be evaluated in order to assess the effect of the impairment(s) on the individual's ability to do basic work activities. The vocational factors of age, education, and work experience are not considered at this step of the process. A determination that an individual's impairment(s) is not severe requires a careful evaluation of the medical findings that describe the impairment(s) (i.e., the objective medical evidence and any impairment-related symptoms), and an informed judgment about the limitations and restrictions the impairment(s) and related symptom(s) impose on the individual's physical and mental ability to do basic work activities. (See SSR 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements.")

Because a determination whether an impairment(s) is severe requires an assessment of the functionally limiting effects of an impairment(s), symptom-related limitations and restrictions must be considered at this step of the sequential evaluation process, provided that the individual has a medically

determinable impairment(s) that could reasonably be expected to produce the symptoms. If the adjudicator finds that such symptoms cause a limitation or restriction having more than a minimal effect on an individual's ability to do basic work activities, the adjudicator must find that the impairment(s) is severe and proceed to the next step in the process even if the objective medical evidence would not in itself establish that the impairment(s) is severe. In addition, if, after completing development and considering all of the evidence, the adjudicator is unable to determine clearly the effect of an impairment(s) on the individual's ability to do basic work activities, the adjudicator must continue to follow the sequential evaluation process until a determination or decision about disability can be reached.

Effective Date

This Ruling is effective on July 2, 1996.

Cross-References

SSR 85-28, "Titles II and XVI: Medical Impairments That are Not Severe," SSR 96-4p, "Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations," and SSR 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements;" and Program Operations Manual System, sections DI 24505.001, DI 24505.005, DI 24515.061, DI 25215.005, DI 25225.001, DI 26515.005, DI 26515.015, and DI 26516.010.

[FR Doc. 96-16686 Filed 7-1-96; 8:45 am]

BILLING CODE 4190-29-P

[Social Security Ruling (SSR) 96-1p]

Application by the Social Security Administration (SSA) of Federal Circuit Court and District Court Decisions

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 96-1p. This Ruling clarifies SSA's longstanding policies that (1) unless and until a Social Security Acquiescence Ruling is issued determining that a final circuit court holding conflicts with the Agency's interpretation of the Social Security Act or regulations and explaining how SSA will apply such a holding, SSA decisionmakers will continue to be bound by SSA's nationwide policy,

rather than the court's holding, in adjudicating other claims within that circuit court's jurisdiction, and (2) despite a district court decision which may conflict with SSA's interpretation of the Social Security Act or regulations, SSA adjudicators will continue to apply SSA's nationwide policy when adjudicating other claims within that district court's jurisdiction unless the court directs otherwise.

This Ruling does not in any way modify SSA's acquiescence policy to which the Agency continues to remain firmly committed, but instead serves to emphasize consistent adjudication in the programs SSA administers.

EFFECTIVE DATE: July 2, 1996.

FOR FURTHER INFORMATION CONTACT:

Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the Federal Register to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

Dated: June 7, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling

Application by the Social Security Administration (SSA) of Federal Circuit Court and District Court Decisions

Purpose: To clarify longstanding policy that, unless and until a Social Security Acquiescence Ruling (AR) is issued determining that a final circuit court holding conflicts with the Agency's interpretation of the Social Security Act or regulations and explaining how SSA will apply such a holding, SSA decisionmakers continue to be bound by SSA's nationwide policy, rather than the court's holding, in adjudicating other claims within that circuit court's jurisdiction. This Ruling does not in any way modify SSA's acquiescence policy to which the Agency continues to remain firmly committed, but instead serves to emphasize consistent adjudication in the programs SSA administers. This Ruling is also issued to clarify longstanding Agency policy that, despite a district court decision which may conflict with SSA's interpretation of the Social Security Act or regulations, SSA adjudicators will continue to apply SSA's nationwide policy when adjudicating other claims within that district court's jurisdiction unless the court directs otherwise.

Citations (Authority): Sections 205(a), 702(a)(5) and 1631(d) of the Social Security Act; Sections 413(b), 426(a) and 508 of the Black Lung Benefits Act; Regulations No. 4, section 404.985; Regulations No. 10, section 410.670c; Regulations No. 16, section 416.1485; Regulations No. 22, section 422.406.

Background: Final regulations on the application of circuit court law in the Social Security, Supplemental Security Income, and Black Lung programs were published in the Federal Register on January 11, 1990 (55 FR 1012). SSA first adopted the acquiescence policy set forth in these rules in 1985, with the details evolving over the next 5 years. These rules explain how SSA acquiesces in circuit court law which conflicts with Agency policy; it does so by issuing an AR for a final circuit court decision which SSA determines is in conflict with the Agency's interpretation of the Social Security Act or regulations. 20 CFR 404.985(b), 410.670c(b) and 416.1485(b). The AR, which is issued through publication in the Federal Register, describes the administrative case and the court decision, identifies the issue(s), explains how the court decision differs from SSA policy, and