

not operate a commodity pool, the pool operator must so notify the Commission within 30 calendar days after the end of such calendar year. The Annual Report must be signed pursuant to paragraph (h) of this section and must contain the following:

* * * * *

(6) For the purpose of the Annual Report distribution requirement, including any annual report distributed pursuant to § 4.7(b)(3) or 4.12(b)(2)(iii), the term "participant" does not include a commodity pool operated by a pool operator that is the same as, or that controls, is controlled by, or is under common control with, the pool operator of a pool in which the commodity pool has invested; *Provided*, That the Annual Report of such investing pool contain financial statements that include such information as the Commission may specify concerning the operations of the pool in which the commodity pool has invested.

* * * * *

(h)(1) Each Account Statement and Annual Report, including an account statement or annual report provided pursuant to § 4.7(b) or 4.12(b), must contain an oath or affirmation that, to the best of the knowledge and belief of the individual making the oath or affirmation, the information contained in the document is accurate and complete; *Provided, however*, That it shall be unlawful for the individual to make such oath or affirmation if the individual knows or should know that any of the information in the document is not accurate and complete.

* * * * *

(3) Subject to the provisions of paragraph (h)(4) of this section, the oath or affirmation must be manually signed by a representative duly authorized to bind the pool operator.

(4)(i) An Account Statement or Annual Report may contain a facsimile signature, *Provided*, That:

(A) The CPO maintains in accordance with § 4.23 the Account Statement or Annual Report containing the manual signature from which the facsimile signature was made; and

(B) The Annual Report the CPO files with a registered futures association is manually signed.

(ii) For each pool for which the CPO distributes an Account Statement by means of electronic media, the CPO must make and keep in accordance with § 4.23 a manually signed copy of the Statement.

9. Section 4.31 is proposed to be amended by revising paragraph (a) to read as follows:

§ 4.31 Required delivery of Disclosure Document to prospective clients.

(a) Each commodity trading advisor registered or required to be registered under the Act must deliver or cause to be delivered to a prospective client a Disclosure Document containing the information set forth in §§ 4.34 and 4.35 for the trading program pursuant to which the trading advisor seeks to direct the client's commodity interest account or to direct the client's commodity interest trading by means of a systematic program that recommends specific transactions by no later than the time the trading advisor delivers to the prospective client an advisory agreement to direct or guide the client's account; *Provided*, That any material distributed in advance of the delivery of the Disclosure Document is consistent with or amended by the information contained in the Disclosure Document and with the obligations of the commodity trading advisor under the Act, the Commission's regulations issued thereunder, and the laws of any other applicable federal or state authority.

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Issued in Washington, DC, on March 10, 2003 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03-6180 Filed 3-14-03; 8:45 am]

BILLING CODE 6351-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AF69

Revised Medical Criteria for Evaluating Mental Disorders

AGENCY: Social Security Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are planning to update and revise the rules that we use to evaluate mental disorders of adults and children who apply for, or receive, disability benefits under title II and Supplemental Security Income (SSI) payments based on disability under title XVI of the Social Security Act (the Act). We invite you to send us comments and suggestions for updating and revising these rules.

After we have considered your comments and suggestions, as well as information about advances in medical knowledge, treatment, and methods of evaluating mental impairments, and our

program experience, we intend to publish for public comment a Notice of Proposed Rulemaking (NPRM) that will propose specific revisions to the rules.

As part of our long-term planning for the disability programs, we are also interested in your ideas for how we may be able to improve our programs for people who have mental disorders, especially those who would like to work.

DATES: To be sure your comments are considered, we must receive them by June 16, 2003.

ADDRESSES: You may give us your comments using: our Internet site facility (*i.e.*, Social Security Online) at: <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>, e-mail to regulations@ssa.gov; telefax to (410) 966-2830; or, by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703. You may also deliver them to the Office of Disability and Income Security Programs, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted in our Internet site at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>, or you may inspect them on regular business days by making arrangements with the contact person shown below.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at http://www.access.gpo.gov/su_docs/aces/aces140.html. It is also available on the Internet site for SSA (*i.e.*, Social Security Online): <http://www.ssa.gov/regulations/>.

FOR FURTHER INFORMATION CONTACT:

Cathy Lively, Office of Disability and Income Security Programs, Social Security Administration, 4422 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 966-1180 or TTY (410) 966-5609. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet web site, Social Security Online, at <http://www.ssa.gov>.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Notice?

We are planning to update and revise the rules that we use to evaluate mental disorders of adults and children who apply for, or receive, disability benefits under title II and SSI payments based on disability under title XVI of the Act. The purpose of this notice is to give you an opportunity to send us comments and

suggestions for updating and revising those rules as we begin the rulemaking process. We are also asking for your comments and ideas about how we can improve our disability programs in the future for people with mental disorders.

Who Should Send Us Comments and Suggestions?

Anyone who has an interest in the rules that we use to evaluate mental disorders of adults and children should comment. We are interested in getting comments and suggestions from people who apply for or receive disability benefits from us, members of the general public, advocates and organizations who advocate for people who have mental disorders, experts in the evaluation of mental disorders, researchers, people who make disability determinations for us, and any other people who have ideas for us to consider.

Will We Respond to Your Comments From This Notice?

No, we will not respond directly to comments you send us because of this notice. However, after we consider your comments in response to this notice, along with other information such as medical research and our program experience, we will decide how to revise the rules we use to evaluate mental disorders. When we propose specific revisions to the rules, we will publish an NPRM in the **Federal Register**. In accordance with the usual rulemaking procedures we follow, you will have a chance to comment on the revisions we propose when we publish the NPRM, and we will summarize and respond to the significant comments on the NPRM in the preamble to any final rules.

Which Rules Are We Considering for Updating and Revision?

We are considering two regulations sections and two sections of our listings for revision. The two regulations sections are §§ 404.1520a and 416.920a, and are both titled, "Evaluation of mental impairments." These rules discuss the special technique we use to evaluate all claims of adults who have mental disorders. The two sections of our listings are sections 12.00 and 112.00. These are the listings for mental disorders for adults (Part A, 12.00) and children (Part B, 112.00).

Where Can You Find These Rules on the Internet?

You can find all of these rules on our Internet site.

- § 404.1520a is at http://www.ssa.gov/OP_Home/cfr20/404/404-1520a.htm.

- § 416.920a is at http://www.ssa.gov/OP_Home/cfr20/416/416-0920a.htm.

- Sections 12.00 and 112.00 are in the Listing of Impairments in appendix 1 to subpart P of part 404 of our regulations at http://www.ssa.gov/OP_Home/cfr20/404/404-ap09.htm.

- You can also look up sections 12.00 and 112.00 at this site: <http://www.ssa.gov/disability/professionals/bluebook/>.

If you do not have Internet access, you can find the Code of Federal Regulations in some public libraries, Federal depository libraries, and public law libraries.

Why Are We Updating and Revising Our Rules for Evaluating Mental Disorders?

- The current listings for mental disorders for adults (12.00) and children (112.00) will no longer be in effect on July 2, 2003, unless we extend them or revise and promulgate them again, so we must consider now whether to update and revise them.

- Although we have made some changes to the listings since we first published them, including changes to the listings in 2000 (65 FR 50746, corrected at 65 FR 60584), we have not comprehensively revised the adult listings since 1985 and the childhood listings since 1990.

- Many of our rules for adults are based on the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Third Edition (Washington, DC: APA, 1980), also called the DSM-III. That manual has been updated three times over the years since we first published comprehensive revisions of the adult mental disorders listings. Our childhood listings are based on the revision of the Third Edition (the DSM-III-R), which has been updated twice since we first published comprehensive revisions of those listings. We want to update the terms in our listings so they are consistent with current medical terminology. (The current edition is the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition, Text Revision, Washington, DC, American Psychiatric Association, 2000, also called the DSM-IV-TR.)

- There is also new information about mental retardation (MR) that we need to consider. We recently funded research through the National Research Council (NRC) that assessed our current criteria for evaluating MR in the context of state-of-the-art scientific knowledge and clinical practice. In its final report,

Mental Retardation: Determining Eligibility for Social Security Benefits, the NRC made a number of recommendations to us for revising our rules, and we are considering the recommendations now. If you would like to review the report and send us comments on the recommendations, you can find it at <http://www.nap.edu/books/0309083230/html/>.

- We will also be considering information from other sources, including the following recent documents, for relevance to our policy for evaluating MR:

- Schroeder, Stephen R.; Gerry, Martin; Gertz, Gabrielle; and Velazques, Fiona, *Usage of the Term "Mental Retardation"; Language, Image, and Public Education* (Kansas University Center on Developmental Disabilities, Center for the Study of Family, Neighborhood and Community Policy, The University of Kansas, June 14, 2002). You can find this report online at <http://www.ssa.gov/disability/MentalRetardationReport.pdf>.

- *Mental Retardation: Definition, Classification, and Systems of Supports*, 10th Edition (American Association on Mental Retardation, Washington, DC, 2002).

What Should You Comment About?

We are interested in any comments and suggestions you have for revising any or all parts of §§ 404.1520a and 416.920a and sections 12.00 and 112.00 of our listings. For example, we are interested in knowing if:

- You have concerns about any of the current listings provisions for adults or children; such as whether you think we should change any of our criteria or whether you think a listing is difficult to use or understand.

- You would like to see our listings include something that they do not include now.

You can also comment about the recommendations in the NRC report and about information in the other two sources we cite above and make any other comments or suggestions to help us improve our rules for evaluating whether adults and children who have mental disorders qualify for benefits.

In addition to your comments about our regulations, we are also interested in any ideas you have about how the disability requirements of the Act and our regulations affect people who have mental disorders and:

- Need access to treatment or rehabilitation,
- Want to work, or
- May benefit from some employment.

For example, we know that many people who have mental disorders might not need benefits from us if they could get treatment before their disorders make them unable to work. Others may be disabled and unable to work, but may not need to remain unemployed, if they receive treatment or other interventions. Many people with permanent disorders can work if they have a supporting safety net (including title II disability benefits and SSI payments). Work can also be therapeutic for some people. Although the Act and our regulations include some access to health care through Medicare and Medicaid, some provision for vocational rehabilitation, and a number of work incentives, these provisions are generally for people who already qualify for benefits under our disability programs.

We are interested in your ideas for how we may be able to improve our programs for people who have mental disorders, especially those who would like to work full-time or part-time with supports. Your ideas can address our existing rules and regulations or suggest changes to the law. We will consider your ideas as we develop the NPRM we intend to publish for public comment, and, where applicable, as part of our long-term planning for the disability program.

Other Information

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,

- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see 20 CFR 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or is expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

| If you file a claim under . . . | And you are . . . | Disability means you have a medically determinable impairment(s) as described above and that results in . . . |
|---------------------------------|--------------------------------|---|
| Title II | an adult or a child | the inability to do any substantial gainful activity (SGA). |
| Title XVI | a person age 18 or older | the inability to do any SGA. |
| Title XVI | a person under age 18 | marked and severe functional limitations. |

What Are the Listings?

The listings are examples of impairments that we consider severe enough to prevent a person from doing any gainful activity, or that result in "marked and severe functional limitations" in children seeking SSI payments under title XVI of the Act. Although we publish the listings only in appendix 1 to subpart P of part 404 of our rules, we incorporate them by reference in the SSI program in § 416.925 of our regulations, and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are a person age 18 or over, we apply the listings in part A when we assess your claim, and we never use the listings in part B.

If you are a person under age 18, we first use the criteria in part B of the listings. If the listings in part B do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (See §§ 404.1525 and 416.925.)

If your impairment(s) does not meet any listing, we will also consider whether it medically equals any listing; that is, whether it is as medically severe. (See §§ 404.1526 and 416.926.)

We use the listings only to decide that people are disabled or that they are still disabled. We will never deny your claim

or decide that you no longer qualify for benefits simply because your impairment(s) does not meet or medically equal a listing. If you have a severe impairment(s) that does not meet or medically equal any listing, we may still find you disabled based on other rules in the "sequential evaluation process" that we use to evaluate all disability claims. (See §§ 404.1520, 416.920, and 416.924.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: February 14, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

[FR Doc. 03-6278 Filed 3-14-03; 8:45 am]

BILLING CODE 4191-02-U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 72, 75, and 90

RIN 1219-AB14; 1219-AB18

Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust; Determination of Concentration of Respirable Coal Mine Dust

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rules; notice of public hearings; close of record.

SUMMARY: MSHA will hold public hearings to receive comments on the proposed rule addressing Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust (Plan Verification), and the notice of reopening addressing Determination of Concentration of Respirable Coal Mine Dust (Single Sample), both published in the **Federal Register** on March 6, 2003.

These hearings will be held pursuant to section 101 (30 U.S.C. 811) of the Federal Mine Safety and Health Act of 1977 (Mine Act).

DATES: Post-hearing comments must be received on or before June 4, 2003.

The public hearing dates and locations are listed in the Public Hearings section below under **SUPPLEMENTARY INFORMATION.**