



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA-2013-0040]

RIN 0960-AH49

Extension of Expiration Date for Mental Disorders Body System Listings

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending the expiration date of the Mental Disorders body system in the Listing of Impairments (listings) in our regulations. We are making no other revisions to this body system in this final rule. This extension will ensure that we continue to have the criteria we need to evaluate mental disorders at step three of the sequential evaluation processes for initial claims and continuing disability reviews.

DATES: This final rule is effective on [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Director, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1020. 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 site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

We use the listings in appendix 1 to subpart P of part 404 of 20 CFR at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the title II and title XVI programs.¹ 20 CFR 404.1520(d), 416.920(d). The listings are in two parts: Part A has listings criteria for adults and Part B has listings criteria for children. If you are age 18 or over, we apply the listings criteria in part A when we assess your impairment or combination of impairments. If you are under age 18, we first use the criteria in part B of the listings when we assess your impairment(s). If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of your impairment(s). 20 CFR 404.1525(b), 416.925(b).

Explanation of Changes

In this final rule, we are extending the date on which the mental disorders body system listings will no longer be effective from January 2, 2014 to January 2, 2015.

We continue to revise and update all of the listings on a regular basis, including those body systems not affected by this final rule.^{2,3} We intend to update the mental disorders body

¹ We also use the listings in the sequential evaluation process we use to determine whether a beneficiary's disability continues. See 20 CFR 404.1594, 416.994, and 416.994a.

² 75 FR 51336 (2010). We also recently published a final rule that makes a technical change by replacing the term "mental retardation" in our listings and elsewhere in our rules to "intellectual disability." 78 FR 46499 (2013).

system listings as quickly as possible, but may not be able to publish the final rule revising the listings in this body system by the current expiration date. We published a Notice of Proposed Rulemaking in the *Federal Register* on August 19, 2010, in which we proposed changes to the Mental Disorders listings. We received comments from 2,243 public commenters. We are drafting a final rule for the listings in this body system that responds to the significant suggestions and concerns raised by the commenters. Many of the claims for disability that we receive involve mental disorders, and a large number of people would be affected by any changes we make to the Mental Disorders listings. We are carefully considering the changes necessary to update these listings before we publish a final rule. Therefore, we are extending the current expiration date for the Mental Disorders body system listings.

Regulatory Procedures

Justification for Final Rule

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to the notice-

³ Since we last extended the expiration date of some of the listings in June 2012 (77 FR 35264 (2012)), we have published final rules revising the medical criteria for evaluating congenital disorders that affect multiple body systems (78 FR 7659 (2013)), and the medical criteria for evaluating visual disorders in the special senses and speech body system (78 FR 18837 (2013)). We have also published proposed rules that would revise the medical criteria for evaluating genitourinary disorders (78 FR 7695 (2013)) and respiratory system disorders (78 FR 7968 (2013)), and provide criteria for evaluating growth disorders and weight loss in children (78 FR 30249 (2013)).

and-comment requirements when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We determined that good cause exists for dispensing with the notice and public comment procedures. 5 U.S.C. 553(b)(B). This final rule only extends the date on which the mental disorders body system listings will no longer be effective. It makes no substantive changes to our rules. Our current regulations⁴ provide that we may extend, revise, or promulgate the body system listings again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). We are not making any substantive changes to the listings in this body system. Without an extension of the expiration date for these listings, we will not have the criteria we need to assess medical impairments in the mental disorder body system at step three of the sequential evaluation processes. We therefore find it is in the public interest to make this final rule effective on the publication date.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the requirements for a significant regulatory action under Executive

⁴ See the first sentence of appendix 1 to subpart P of part 404 of 20 CFR.

Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule does not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections, and therefore does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

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

Dated: November 22, 2013.

Carolyn W. Colvin,
Acting Commissioner of Social Security.

For the reasons set out in the preamble, we are amending appendix 1 to subpart P of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below.

PART 404--FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE
(1950--)

Subpart P--[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)-(b) and (d)-(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)-(b) and (d)-(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104-193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108-203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Amend appendix 1 to subpart P of part 404 by revising item 13 of the introductory text before Part A to read as follows:

Appendix 1 to Subpart P of Part 404--Listing of Impairments

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13. Mental Disorders (12.00 and 112.00): January 2, 2015.

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