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VOCATIONAL EXPERT HANDBOOK

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Social Security Administration
Office of Hearings Operations
Office of the Chief Administrative Law Judge

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Preface

Thank you for becoming a vocational expert (VE) for the Office of Hearings Operations (OHO). This handbook provides the basic information you will need when you participate in administrative law judge (ALJ) hearings. The handbook explains Social Security's disability programs, the appeals process we use, your role and responsibilities, and technical information you must know.

We hope that you will find this handbook interesting and useful. If you have any comments or questions about it, please write or call:

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In General-Disability Overview, Vocational Experts, and the Social Security Appeals Process

What are Social Security's Disability Programs?

The Social Security Administration (SSA or agency) administers several programs that pay disability benefits to individuals. Under Title II of the Social Security Act[1] (Act), disability benefits may be paid to people who work in "covered" employment or self-employment and who pay sufficient Social Security taxes[2] to become "insured" for disability benefits. There are also disability benefits that may be paid to the disabled adult children of insured workers who retire, die, or are themselves disabled, and disability benefits that may be paid to certain disabled widows and widowers of insured workers. We often refer to these as "Title II" disability benefits in reference to the title of the Act that provides for these benefits.

We administer another disability program under Title XVI of the Act. Title XVI provides payments of Supplemental Security Income (SSI) to individuals who are age 65 or older, or blind or disabled, and who have limited income and resources. Title XVI (SSI) payments are funded from general tax revenues and not from Social Security taxes, because eligibility for Title XVI programs is not based on payment of Social Security taxes.

Where Do You Fit In?

We use vocational experts (VE) to provide evidence at hearings before an administrative law judge (ALJ).[3] At this level of our *administrative review process* people ask for a *de novo* hearing before an ALJ regarding a prior determination on their claim for benefits under the Social Security disability program.

The administrative review process is our term for a multi-step process of application (or other initial determination) and appeals.

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[1] The Social Security Act, 42 U.S.C. 301 *et seq*., is the federal law governing Social Security benefits.
[2] Federal Insurance Contributions Act (FICA) or Self-Employment Contributions Act (SECA) taxes.
[3] Hearing office staff select VEs in rotation, subject to the VE's availability. HALLEX I-2-5-52.

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In general, there are four levels in the SSA administrative review process:

- Initial determination
- Reconsideration
- ALJ hearing
- Appeals Council review

After they complete the administrative review process, claimants who are still dissatisfied with our final decision generally have the right to appeal to federal district court.

At the initial and reconsideration levels, State agencies (often called "Disability Determination Services," or *DDSs*) make disability determinations for us. Although DDSs are State agencies, we fully fund their operations, and they make disability determinations using our rules. DDSs obtain medical, vocational, and other evidence they need to make these determinations, including arranging for independent medical examinations, which we call "consultative examinations" (CE), when they need them. In general, the determination at the DDS is made by a team consisting of one or more medical professionals (called a *medical consultant* or *psychological consultant*; and sometimes a *medical advisor*) and a lay *disability examiner*.[4] While DDS adjudicators routinely contact claimants to collect information, they usually do not meet with claimants. The DDS disability determination is based on an evaluation of the evidence in the claimant's case file.

Most people who qualify for disability benefits are found disabled by the DDS at the initial and reconsideration levels. Nevertheless, people whose claims are denied or who are otherwise dissatisfied with their determinations[5] may

[4] Depending on where you work, you may encounter variations to the foregoing procedures. For example, in some states there is no reconsideration level, and in some, a special kind of disability examiner called a "single decisionmaker" (SDM) may make the initial determination alone in some cases without getting input from a medical or psychological consultant. This is because we are testing variations to our usual processes in some states. However, section 832 of the Bipartisan Budget Act of 2015, Pub. L. 114-74, 129 Stat. 584, 613, affects the use of an SDM in that the SDM testing modification under 20 CFR 404.906(b)(2) and 416.1406(b)(2) is scheduled to end by the end of calendar year 2018, as well as the other modification being tested, the disability examiner authority, which allows the examiners to make fully favorable determinations in quick disability determinations (QDD) and compassionate allowance (CAL) claims under 20 CFR 404.1615(c)(3) and 416.1015(c)(3). See 81 FR 73027 (10/24/16) and 81 FR 58544 (8/25/16).

[5] For example, some people are found disabled at the DDS level, but not for the entire period they claimed.

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appeal their claims to the ALJ hearing level, the level at which you will be asked to provide evidence.

At certain times, we also review whether people who are already receiving disability benefits continue to be disabled. When such people are dissatisfied with our determination about whether they are still disabled, they too can appeal. The process is somewhat different from the initial claims process, but like the initial process, it has an ALJ hearing level, and you may be asked to provide evidence for such a hearing. We provide more information about this step beginning on page 22.

What is a "VE"?

VEs are vocational professionals who provide impartial expert opinion evidence about a claimant's vocational abilities that an ALJ considers when making a decision about disability. As a VE, you will usually testify over the telephone, although you may be asked to testify by video teleconferencing (VTC) technology or in person at a hearing.[6] Sometimes you may provide opinions in writing by answering written questions called *interrogatories* (which we explain on page 41). At all hearings, you should be prepared to cite, explain, and furnish any sources that you rely on to support your testimony.

For more information, please refer to Hearings, Appeals, and Litigation Law (HALLEX) manual section I-2-5-48.

What is an ALJ?

An ALJ is the official who presides at our administrative hearings. Our ALJs perform a number of duties, including administering oaths, examining witnesses, receiving evidence, making findings of fact, and deciding whether an individual is or is not disabled. Our ALJs are SSA employees and hold hearings on behalf of the Commissioner of Social Security.

What is "Disability" for Social Security Programs?

The Act provides two definitions of disability. One definition applies to all Title II claims and to claims of individuals age 18 and older under Title XVI (SSI). There is a separate definition for children (individuals who have not attained age 18) under the Title XVI (SSI) program.[7]

[6] See 20 CFR 404.936(c)(2) and 416.1436(c)(2).

[7] The children's definition is not based on work, so you will not be asked to testify in cases in which the only issue is whether a child is disabled for Title XVI (SSI) purposes; therefore, we will not discuss Title XVI (SSI) childhood disability further in this handbook.

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The general definition of disability under Title II and for adults under Title XVI is:

> [The] inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which 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.[8]

Under Title II of the Act, a person may also be disabled based on blindness, which is defined as:

> [C]entral visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered . . . as having a central visual acuity of 20/200 or less.[9]

The Title XVI (SSI) program contains an identical definition of the term "blindness" for purposes of determining whether an individual is eligible for benefits based on blindness under the Title XVI (SSI) program.

Additionally, to be found disabled, the Act requires the person's impairments to be so severe that the person is not only unable to do his or perevious work but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. This provision requires the ALJ to determine the claimant's ability:

- To do previous work, and
- To make an adjustment to other work considering the effects of his or her medical condition(s) and the *vocational factors* of age, education, and work experience.

We have detailed regulations and other rules defining all the terms in the Act and explaining our requirements for determining disability. We describe these rules in more detail beginning on page 13.

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[8] See sections 223(d)(1)(A) and 1614(a)(3)(A) of the Act.
[9] See sections 216(i)(1) and 1614 (a)(2) of the Act.

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What Happens at the ALJ Hearing?[10]

In the vast majority of cases at the hearing level, ALJs hold hearings at which claimants, and sometimes other people,[11] appear and testify. This hearing is generally the first time in the administrative review process that the claimant has a chance to see and talk to the person who will make the disability decision. However, a claimant may ask the ALJ to make a decision without an in-person hearing, based only on the documents in his or her case record. You may be asked to provide evidence in both kinds of cases, either by testifying at a hearing or by submitting written responses to written interrogatories.

At the hearing, the ALJ will have all of the documentary information that the DDS considered at the initial and reconsideration levels. The claimant generally also has submitted more evidence in connection with his or her appeal. Although ALJ hearings are more informal than court proceedings, the ALJ will swear in the claimant and any other witnesses, including you. Most claimants are represented by an attorney or other representative, but there is no requirement that the claimant have a representative. The hearing is non-adversarial; that is, there is no representative for SSA who argues in favor of the DDS determination. The ALJ is responsible for assisting the claimant and following the Act, regulations, and other rules, and is an impartial decisionmaker.

The ALJ will ask you questions before you testify to establish your independence and impartiality, and your qualifications and competence to testify in vocational matters. If the ALJ does not already have it, you should provide him or her with a written résumé or curriculum vitae summarizing your experience and background, which the ALJ will enter into the case record as evidence. The ALJ will also ask you whether the résumé or curriculum vitae is accurate and up to date, and will likely ask you whether you are familiar with applicable SSA regulations and other rules. The ALJ will also ask the claimant and his or her representative, if any, whether they object to your testifying.

In most cases, VEs will testify by telephone. Increasingly, we have been using VTC technology to improve our capacity to hold timely hearings. In some cases, all of the participants in the hearing will be present in the same room for the hearing. Regardless of how the testimony is given, the ALJ will question the claimant, you, and any other witnesses. The claimant and his

[10] See page 10 of this handbook for additional information about prehearing review and preliminary questions the ALJ will ask you to establish your expertise and impartiality.
[11] Such as family members and medical and vocational expert witnesses.

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or her representative will also have an opportunity to question you and other witnesses and to make arguments to the ALJ. The ALJ has the authority to determine the propriety of any questions asked. The agency makes an audio recording of the hearing.

You may be present throughout the entire hearing or the ALJ may decide that you should come into the hearing at a specific time. If you are not present throughout the hearing, the ALJ may summarize the claimant's relevant vocational testimony.

After the hearing, the ALJ will generally consider all the evidence and issue a written decision. Sometimes the ALJ will get more information after the hearing that necessitates obtaining additional information from the vocational expert. The ALJ may then ask you to answer written interrogatories.[12] These may be the ALJ's own questions or questions submitted by the claimant or his or her representative. The ALJ may also decide to hold another hearing, called a *supplemental hearing*.

What is the Appeals Council?

The Appeals Council is the last level of appeal within SSA. There are no local Appeals Council offices. The Appeals Council's headquarters is in Falls Church, Virginia; it also has offices in Arlington, Virginia and Baltimore, Maryland.

If the claimant is dissatisfied with the ALJ's decision, he or she may request Appeals Council review. The Appeals Council may grant, deny, or dismiss the request for review. If the Appeals Council denies the request to review the ALJ's decision, the ALJ's decision will become SSA's final decision. If the Appeals Council grants the request for review, it may make its own decision reversing, modifying, or affirming the ALJ's decision. In that case, the Appeals Council's decision becomes SSA's final decision.

In most cases, when the Appeals Council grants a request for review, it does not make its own decision. Instead, the Appeals Council *remands* (*i.e.*, returns) the case to the ALJ for additional action, including possibly a new hearing and decision. You may be asked to testify at an ALJ hearing that results from an Appeals Council remand.

[12] Interrogatories are explained on page 41.

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What are Federal Court Appeals?

If the claimant is dissatisfied with SSA's final decision in the administrative review process, he or she may file a civil action in a federal district court. The district court may affirm, modify, or reverse SSA's final decision. In some cases, the district court will remand the case to SSA for further proceedings, which may include a new ALJ hearing and decision. You may be asked to testify at an ALJ hearing that results from a district court remand.

The claimant can continue to appeal his or her case in the federal courts to a United States Court of Appeals ("circuit court") and eventually to the Supreme Court of the United States, although this is extremely rare. At each of these levels, it is possible that the court will remand the case to SSA for a new hearing at which you may be asked to testify.

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Role of the VE

Responsibilities of the VE

ALJs use VEs in many cases in which they must determine whether a claimant can do his or her previous work or other work.[13] A VE provides both factual and expert opinion evidence based on knowledge of:

- The skill level and physical and mental demands of occupations.
- The characteristics of work settings.
- The existence and incidence of jobs within occupations.
- Transferable skills analysis and SSA regulatory requirements for *transferability* of work skills.

While not a definitive list of job requirements, an ideal VE will have:

- Up-to-date knowledge of, and experience with, industrial and occupational trends and local labor market conditions.
- An understanding of how we determine whether a claimant is disabled, especially at steps 4 and 5 of the *sequential evaluation process* we describe beginning on page 14.
- Involvement in or knowledge of vocational counseling and the job placement of adult, handicapped workers into jobs.
- Knowledge of, and experience using, vocational reference sources of which the agency has taken administrative notice under 20 CFR 404.1566(d) and 416.966(d), including:
  - → The Dictionary of Occupational Titles (*DOT*) and the Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles (*SCO*);[14]
  - → *County Business Patterns* and Census reports published by the Bureau of Census;

[13] See 20 CFR 404.1560(b)(2), 404.1566(e), 416.960(b)(2), 416.966(e).
[14] For simplicity, we refer only to the *DOT* in the remainder of this handbook. It should be understood that when we refer to the *DOT,* we mean the *SCO* as well whenever appropriate.

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→ The *Occupational Outlook Handbook* published by the Bureau of Labor Statistics; and

→ Any occupational analyses prepared for SSA by various state employment agencies.

We have rules for determining whether a claimant can make an adjustment to work other than work that he or she previously performed. ALJs frequently ask for VE testimony in these cases. We provide more details regarding these issues later in this handbook.

At the Hearing

You will provide evidence by answering questions posed by the ALJ and the claimant or the claimant's representative. Questions will typically be framed based on hypothetical[15] findings of age, education, work experience, and functional limitations. You *may* answer questions about issues that could be decisive in a case, such as whether a claimant could still do his or her previous work given hypothetical findings about functional limitations an ALJ will provide you. You should never comment on medical matters, such as what you believe the medical evidence indicates about the claimant's diagnosis or the functional limitations caused by the claimant's impairment(s) (SSA's term for medical conditions), or whether you believe the claimant is disabled.

If you have any questions—*e.g.*, about an aspect of a claimant's testimony—or you need more information, you should inform the ALJ. The ALJ will decide whether the information is pertinent and how it should be elicited.

The ALJ will not rely on your testimony alone to make his or her ultimate decision about disability or any of the vocational findings that go into the decision. The ALJ will consider your testimony together with the other evidence in the case record, including the claimant's testimony at the hearing and any other testimony. Your testimony may also help the ALJ determine whether he or she needs more evidence in order to make a decision.

Conduct of the VE

You are giving sworn testimony and should conduct yourself as if you are testifying in a civil or criminal court. Give complete answers to the questions you are asked, and do not volunteer information. Whenever possible, you

[15] See page 35 for further information on hypothetical findings.

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should phrase your answers in lay terms. To ensure impartiality, you must avoid any substantive contact with the ALJ before or after the hearing, and avoid face-to-face or telephone contact with the claimant or his or her representative, both before and after the hearing. You must disqualify yourself if you believe that you cannot be completely impartial, have prior knowledge of the case, or have had prior contact with the claimant. However, the ALJ will not disqualify you merely because you testified in a previous case regarding the same claimant.

Pre-Hearing Preparation

The ALJ will generally provide you with relevant portions of the case file before the hearing. (You must fully understand the importance of proper handling of this information; please read the next section "Protecting Personally Identifiable Information (PII)" carefully.) This information will give you a chance to become familiar with the vocational evidence in the claim. It will also prepare you to answer the kinds of questions—such as questions about the requirements of the claimant's previous work—you can expect to get at the hearing. If after reviewing this information you believe that you need more information to provide adequate testimony, you should prepare a written list of your questions and refer them to the ALJ.

Generally, the period under consideration for establishing disability in initial claims begins with the date the claimant alleges that he or she became disabled (commonly referred to as the *alleged onset date*, or AOD) and goes through the date of the ALJ's decision. However, there are situations requiring evaluation of the claimant's medical condition at an earlier time[16] or starting at a later time. The ALJ will advise you of the period under consideration.

Protecting Personally Identifiable Information (PII)

SSA defines PII as any information that can be used to distinguish or trace an individual's identity (such as his or her name, Social Security number, biometric records, etc.) alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual (such as date and place of birth, mother's maiden name, etc.). SSA is mandated to safeguard and protect the PII entrusted to the agency[17] and to immediately report breaches to the Department of Homeland Security.

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[16] For example, as we note in the next section, a worker's insured status under Title II can expire. In this situation, the worker can still qualify for disability benefits, but must show that he or she was disabled on or before this *date last insured.*

[17] See section 1106 of the Act and 5 U.S.C. 552a.

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The claimant information the ALJ provides to you, which may be in paper or electronic form, must be protected against loss, theft, or inadvertent disclosure. Failure to take the proper steps to protect this information, or failure to immediately report to SSA when you suspect PII is compromised, could adversely affect your standing and may result in termination of your contract. To maintain good standing with SSA, follow these instructions to reduce the risk of PII loss, theft, or inadvertent disclosure:

- Ensure your employees or associates are fully aware of these procedures and the importance of protecting PII.
- If you are expecting to receive claimant information from SSA, and you have not received it within the expected time frame, immediately notify your SSA contact or alternate contact.
- Secure all SSA claimant information in a locked container, such as a locked filing cabinet, or while in transit, in a locked briefcase.
- Once you arrive at your destination, always move PII to the most secure location. Do not leave PII locked in a car trunk overnight.
- When viewing a claimant's file, prevent others in the area from viewing the file's contents.
- Ensure PII is appropriately returned or, upon receiving SSA's approval, destroyed when no longer needed. Media must be destroyed in a manner that prevents unauthorized disclosure of sensitive information. Appropriate destruction techniques include shredding, pulverizing, and burning.

In the event of a loss, theft, or disclosure you must *immediately* notify your primary SSA contact or alternate contact. Report the following information, as completely and accurately as possible:

- Your contact information
- A description of the loss, theft, or disclosure, including the approximate time and location of the incident
- A description of safeguards used, as applicable
- Whether you have contacted, or been contacted, by any external organizations (*i.e.*, other agencies, law enforcement, press, etc.), and whether you have filed any other reports
- Any other pertinent information

If you are unable to reach your SSA contacts, call SSA's National Network Service Center (NNSC) toll free at 1-877-697-4889. Provide them with the

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information outlined above. Record the Change, Asset, and Problem Reporting System (CAPRS) number which the NNSC will assign to you. Limit disclosure of the information and details about the incident to only those with a need to know. The security/PII loss incident reporting process will ensure that SSA's reporting requirements are met and that security/PII loss incident information is only shared appropriately.

Delay in reporting may adversely affect SSA's ability to investigate and resolve the incident and may contribute to suspension or termination of your contract.

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Determining Disability

You may be asked to give evidence in any kind of disability case under the programs we administer, except childhood disability cases under Title XVI. Most often, you will be giving evidence in cases of insured workers (see page 1) under Title II and adults claiming SSI disability benefits under Title XVI, or "concurrent" claims for both types of benefits. Less often, you may testify at hearings concerning the other kinds of disability cases described below.

Detailed Definitions of Disability

The Act defines disability in all Title II claims and in adult Title XVI claims as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which 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.[18] The latter part of the definition is the "duration requirement."

"Inability to engage in any substantial gainful activity" means that a claimant's impairment(s) must not only prevent him or her from performing previous work but from making an adjustment to any other kind of substantial gainful work that exists in significant numbers in the national economy, considering his or her age, education, and previous work experience. The law specifies that it is irrelevant whether:

- The work exists in the immediate area where the claimant lives,
- A specific job vacancy exists, or
- The claimant would be hired if he or she applied for work.

In other words, the question is not whether the claimant can *get* a job, only whether he or she can *do* it.

[18] As we have already noted, there is also a statutory definition of blindness under Titles II and XVI, but under Title II, blindness is a kind of "disability," while under Title XVI it is a category separate from "disability." There is also a separate definition of disability under Title II for people who are at least 55 years old and blind. These technical, legal distinctions do not affect your work as a vocational expert. We provided the statutory definition of blindness on page 4 of this handbook.

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Determining Initial Disability for All Title II and Adult Title XVI Cases

The Sequential Evaluation Process

We have extensive regulations and other rules that interpret the provisions of the Act described above and instruct our ALJs and other adjudicators on how to determine whether a claimant is disabled. The rules interpreting the basic definition of disability for adults provide a five-step *sequential evaluation process* that we use to determine whether a claimant is disabled. We use different sequential processes to determine whether beneficiaries continue to be disabled (*Continuing Disability Review*, or CDR, and redeterminations of the disability of individuals who qualified for Title XVI (SSI) benefits as children when they reach age 18).

The sequential evaluation process requires the adjudicator to follow the steps in order, and at each step, either make a decision, in which case the evaluation stops, or decide that a decision cannot be made at that step. When the ALJ determines that a decision cannot be made at a given step, he or she goes on to the next step(s) until a decision can be made. 20 CFR 404.1520 and 416.920.[19]

Note that for each of the first four steps described below, we explain that the ALJ may stop and make a decision. However, with some exceptions,[20] ALJs generally do not make their decisions at the hearing. ALJs generally issue a written decision some time after the hearing. ALJs generally ask for information relevant to all of the steps of the sequential evaluation process at the hearing. The description below explains the steps that an ALJ follows when making disability decisions.

STEP 1: Is the claimant engaging in substantial gainful activity?[21]

Substantial gainful activity (SGA) is work activity that: (a) involves doing significant physical or mental activities; and (b) is usually done for pay or

[19] "20 CFR" is a reference to Title 20 of the *Code of Federal Regulations* (CFR). The CFR is a compilation of all federal regulations, and Title 20 contains SSA's regulations. Regulation section numbers that start with the number "404" are Title II regulations; those that start with the number "416" are for Title XVI. See the List of References at the end of this handbook for more information about our regulations and other rules.

[20] The most common exception is under a rule we have that allows an ALJ to announce at the hearing that he or she has found that the claimant is disabled. ALJs cannot announce denial decisions at the hearing.

[21] 20 CFR 404.1574, 404.1575, 416.974, and 416.975 provide evaluation guides for determining whether work is SGA.

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profit, whether or not a profit is realized. Generally, we do not consider activities like self-care, household tasks, hobbies, therapy, school attendance, club activities, or social programs to be substantial gainful activity.

SGA is most often measured by gross monthly earnings. When countable monthly earnings are above a prescribed amount, which increases each year, the claimant is generally considered to be engaging in SGA. Self-employed individuals are engaging in SGA when they perform significant services in a business, work comparable to unimpaired individuals, or work which is worth the prescribed monthly SGA amount. Since the basic definition of disability is "inability to engage in any substantial gainful activity," we find that a claimant who is actually doing SGA is "not disabled" regardless of the severity of his or her impairment(s).

STEP 2: Does the claimant have a "severe" impairment?

The ALJ will generally consider two issues at this step: whether the claimant has a "medically determinable impairment" and, if so, whether it is "severe" and meets the duration requirement.[22] The Act requires that the claimant show the existence of an impairment by medically acceptable clinical and laboratory diagnostic techniques, which we often refer to as "objective" medical evidence.

The word "severe" is a term of art in SSA's rules. An impairment or a combination of impairments is "severe" if it significantly limits a claimant's ability to do one or more basic work activities needed to do most jobs. See 20 CFR 404.1520(c), 404.1521, 416.920(c), and 416.921. Under SSA's rules, abilities and aptitudes necessary to do most jobs include physical functions, such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, handling, seeing, hearing, and speaking. They also include mental functions, such as understanding, carrying out and remembering simple instructions; using judgment; responding appropriately to supervision, co-workers, and usual work situations; and dealing with changes in a routine work setting. 20 CFR 404.1521 and 416.921.

Even though the rules defining a "severe" impairment refer to basic work-related activities, you should not expect to provide any testimony about this step of the process. The ALJ will determine whether the claimant has any medically determinable impairments, whether they result in limitations, and

[22] There is no requirement to establish a medically determinable impairment that results in blindness under Title XVI.

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whether any limitations affect the claimant's ability to do basic work-related activities, and should not need any information from you for these issues.

If the claimant does not have a medically determinable impairment, or if the medically determinable impairment(s) is not "severe," the claimant is not disabled and the analysis stops. If the claimant has at least one "severe" medically determinable impairment or a number of non-severe impairments that are severe when considered in combination, the ALJ goes to the next step.

STEP 3: Does the claimant have an impairment(s) that meets or medically equals a listed impairment in the Listing of Impairments?

The ALJ will find that the claimant is disabled when the objective medical evidence and other findings associated with the claimant's medically determinable impairment(s) satisfies all of the criteria for an impairment described in the Listing of Impairments (Listings) set out in Appendix 1, Subpart P of Part 404 of our regulations,[23] and meets the duration requirement. Disability may also be established when the claimant has an impairment or a combination of impairments with findings that do not meet the specific requirements of a listed impairment but are medically equivalent in severity to the findings of a listed impairment and meet the duration requirement.

The Listings describe, for each "body system," medically determinable impairments and associated findings that we consider severe enough to prevent an adult from doing "any gainful activity" regardless of his or her age, education, or work experience. Note that this is a stricter standard than the standard in the basic definition of disability for adults: "any *substantial* gainful activity." The listings describe a higher level of severity because they do not consider the vocational factors of previous work experience, age, and education that are considered at the last step of the sequential evaluation process.

You will not be asked to testify about anything related to the Listings.

Residual Functional Capacity (RFC)

If the claimant is not engaging in SGA and has at least one severe impairment that does not meet or medically equal a listing, the ALJ must

[23] We print the Listings only in Part 404 (the Title II regulations) to save space in the CFR. They also apply to Title XVI.

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assess the claimant's RFC before going on to step 4. The RFC assessment is a description of the physical and mental work functions the claimant can still perform in a work setting on a sustained basis despite his or her impairment(s).

The RFC is the *most* that the claimant can still do despite the limitations caused by his or her impairment(s), including any related physical or mental symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness. However, at the hearing the ALJ may describe the claimant's functioning in terms of limitations and restrictions as well.

Note that the ALJ must consider limitations from *all* of the claimant's impairments, including limitations from any medically determinable impairment that is not "severe." As you saw under step 2, our definition of "severe" is based on work functioning. Therefore, an impairment that is not "severe" might still cause some slight or minimal limitations in functioning, and those limitations might affect the claimant's ability to do some jobs or job functions.

You should not be asked your opinion about the claimant's RFC, functional abilities, limitations, or restrictions. If you are asked about these topics (by an ALJ, a claimant, or a representative), you should not respond. Instead, as we explain below, the ALJ will pose one or more questions to you (called *hypotheticals,* see page 35) that will include various possible RFC findings that he or she might make.

There are two important additional agency policies about RFC you should know:

- First, the RFC is generally what an individual can still do on a "regular and continuing basis," 8 hours a day, for 5 days a week, or an equivalent work schedule; that is, in a work setting.[24]

- Second, the RFC considers only the effects of the claimant's medically determinable impairment(s). By rule, the ALJ cannot consider the claimant's age, sex, body habitus,[25] or overall

[24] In some cases, the ALJ may ask you a hypothetical that is not consistent with full-time work. There are two main situations in which this will happen: 1. The ALJ is posing a hypothetical RFC that assumes that he or she has accepted a claimant's alleged limitations, and those allegations are inconsistent with full-time employment. 2. The ALJ is trying to determine whether the claimant is capable of doing previous work that was part-time work.
[25] Note, however, that SSA may consider obesity to be a medically determinable impairment. Social Security Ruling (SSR) 02-01p.

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conditioning when determining RFC, but only limitations that result from documented medically determinable impairments.

See SSR 96-8p, *Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims*.[26]

The ALJ evaluates the claimant's ability to meet the physical, mental, sensory, and other requirements of work. The ALJ considers physical abilities, including: exertional activities (*e.g.*, sitting, standing, walking, lifting, carrying, pushing, and pulling); postural activities (*e.g.*, stooping, climbing); manipulative activities (*e.g.*, reaching, handling); vision; the physical aspects of communication (hearing, speaking); and environmental factors (*e.g.*, tolerance of temperature extremes or dusty environments). The ALJ will also consider mental functions (*e.g.*, understanding and remembering instructions of various complexities, concentrating, getting along with coworkers and the public, responding appropriately to supervision, and responding to changes in the workplace).

As suggested in the preceding paragraph, our rules recognize the same seven *exertional* (strength) limitations as in the *DOT.* All other physical limitations (including postural, manipulative, communicative, visual, and environmental) and mental limitations are *nonexertional.* Our rules also use the same strength ratings to categorize work as in the *DOT* (sedentary, light, medium, heavy, and very heavy).

STEP 4: Can the claimant do past relevant work?

After assessing the RFC, the ALJ will decide whether the claimant is able to do any *past relevant work* (PRW), either as the claimant actually performed it or as the work is generally performed in the national economy. The term "PRW" is generally defined as the work the claimant performed at the SGA level within the last 15 years (or before certain ending dates specified in our rules) and includes only jobs that lasted long enough for the claimant to learn to do them.

The ALJ will make this determination by comparing the claimant's RFC with the requirements of these jobs. For this step of the sequential evaluation process, the ALJ may call on you to provide information about such issues as:

[26] Although SSRs do not have the force and effect of the law or regulations, they are binding on all components of SSA, including ALJs and other adjudicators. See the List of References at the end of this handbook, or click here, for a list of important SSRs that you may need to consult.

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- What a claimant's jobs were in the 15 years before the hearing or another date that the ALJ specifies,
- Whether they lasted long enough for the claimant to learn how to do them,
- The physical and mental demands of a job as the claimant says he or she *actually* performed it, and
- The physical and mental requirements of the job as it is usually performed in the national economy, if it is performed in the national economy.[27]

At each hearing, please be prepared to cite, explain, and furnish any sources upon which you rely in your testimony.

If there is PRW that the claimant can still do, the claimant is not disabled and the analysis stops. If the claimant cannot do any PRW, or does not have any PRW, the ALJ will continue to the last step.

STEP 5: Can the claimant do other work?

If the ALJ finds that the claimant can no longer do any PRW, or the claimant does not have any PRW, the ALJ must finally consider whether the claimant can make an adjustment to other work that exists in significant numbers in the national economy. In making this finding, the ALJ must consider the claimant's RFC, age, education, and past relevant work experience. To do this, the ALJ must refer to the *Medical-Vocational Guidelines,* in Appendix 2 of Subpart P of Part 404 of our regulations[28] (often called the *grid rules* or the *grids*).[29] Appendix 2 includes three tables with rules that provide a matrix of various combinations of RFC, age, education, and past relevant work experience. When the facts of a claimant's case match a grid rule exactly, the rule directs a conclusion of either "disabled" or "not disabled."

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[27] Work a claimant performed outside of the United States can be PRW, but in that case, we consider only how the claimant actually performed it, not how it is usually performed in another country. See SSR 82-40. Also **note** that PRW does not have to exist in significant numbers, so you will not have to be prepared to testify about numbers of jobs with regard to a claimant's PRW. The issue of significant numbers arises only at step 5.

[28] In some cases, an ALJ can find that a claimant is disabled under special rules that do not involve the grid rules we discuss in the rest of this paragraph and in more detail later in this handbook. You do not need to know about these rules. In the unlikely event that an ALJ needs your testimony to determine whether one of the special medical-vocational profiles applies in a case, he or she will give you instructions.

[29] We print the grid rules only in Part 404 (the Title II regulations) to save space in the CFR. They also apply to Title XVI.

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If the claimant's characteristics do not match a grid rule, the ALJ must use the rules in Appendix 2 as a *framework* for decisionmaking. You will often be asked to testify in the latter type of case. We provide more information about the grid rules, the vocational factors, the other terms related to step 5, and questions you should be prepared to answer beginning on page 24 of this handbook.

Again, at the hearing, please be prepared to cite, explain, and furnish any sources that you rely on to support your testimony.

At this last step of the sequential evaluation process, the ALJ must decide whether the claimant is disabled. If the claimant can make an adjustment to other work that exists in significant numbers in the national economy, he or she is not disabled. If the claimant cannot make an adjustment to other work that exists in significant numbers in the national economy, the claimant is disabled.

NOTE: The Act provides that a claimant will not be found disabled if the claimant has drug addiction or alcoholism (DAA) and the DAA is a contributing factor that is "material" to the finding that the claimant is disabled. In other words, if the ALJ determines that a claimant is disabled and that he or she has DAA, the ALJ must also determine whether the claimant would still be disabled if he or she stopped using drugs or alcohol. In this case, the ALJ will go through the sequential evaluation process again and make findings based on an assumption that the claimant has stopped substance use. This means that the ALJ may pose more questions to you about a claimant's ability to do previous work or other work based on a hypothetical RFC assessment that assumes that the claimant's DAA has stopped.

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Determining Continuing Disability

In addition to adjudicating appeals involving a claimant's initial entitlement to disability benefits, ALJs also adjudicate appeals of determinations that individuals who were previously awarded disability benefits are no longer "disabled." There are two basic types of cases in this category.

- From time to time, we review the continuing disability of both adults and children under Titles II and XVI.[30] We refer to these cases as *continuing disability reviews* (CDR), or "cessation" cases.

- Title XVI also requires that we *redetermine* the eligibility of individuals who qualified for Title XVI (SSI) as children when they reach age 18, using the adult rules for initial disability claims. We refer to these cases as *age-18 redetermination* cases.

In these type of cases, the DDS will have already determined that the individual's disability ended on a specific date. The ALJ then considers whether the individual's disability actually ended on that date, at a later date, or not at all. In some—but not all—cases, the ALJ will consider whether the individual has become disabled again even if the disability did end in the past. The ALJ will give you instructions, and you will be asked questions, appropriate to the issues of the specific case.

As we have already noted, we use a different sequential evaluation process to evaluate whether an individual continues to be disabled than the one we use in initial claims for disability benefits. This is because there are different standards in the Act for determining, with a CDR, whether disability has ended. 20 CFR 404.1594, 416.994, and 416.994a.[31] In a CDR, the ALJ must determine whether the evidence shows *medical improvement* in the individual's condition from the most recent favorable medical decision that the claimant was disabled or continued to be disabled. There are few differences between the opinions you will be asked to give in these cases and the opinions you are asked to give in cases involving initial applications for benefits.

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[30] We review cases at frequencies ranging from as little as 6 months after the decision date, up to about 7 years, depending on the probability that the individual's impairment(s) will improve to the point of nondisability. We do not send all individuals' cases to the DDS for a medical review. In many cases, we determine through a questionnaire we call a "mailer" that the individual's disability continues.

[31] The CDR sequential evaluation processes in Title II and Title XVI are slightly different from each other, but the differences do not affect your work as a VE.

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CDRs and Medical Improvement

The Act provides that we generally cannot find that an individual's disability has ended unless we have evidence showing that:

- The impairment(s) upon which we last found him or her to be disabled or still disabled has medically improved, [32]
- The medical improvement is "related to the ability to work," in the case of adults,[33] *and*
- The individual is not disabled under the basic definition of disability.

To determine whether medical improvement has occurred, the ALJ will look only at the impairment(s) the individual had at the time of our most recent favorable disability decision; that is, either our initial decision that the individual was disabled or, if more recent, our last determination that the individual was still disabled. We call this the *comparison point decision* (CPD). The ALJ will compare the medical severity of the CPD impairment(s) at the time of the DDS's cessation determination to the severity of those impairments at the time of the CPD.[34] Medical improvement is any decrease in the medical severity of those CPD impairments as shown by changes (improvement) in the signs, symptoms, and laboratory findings associated with the impairment(s).[35]

We have complex rules defining what the term "related to the ability to work" means. Even if there has been medical improvement related to the ability to work, the ALJ will find that disability continues if the individual has an impairment(s)—including any new impairment(s) that was not present at the time of the CPD— or a combination of impairments that meets the basic definition of disability; that is, if he or she is unable to engage in SGA. Suffice it to say that an ALJ may ask for your opinions about the same issues on which you will be testifying in hearings on initial claims.

NOTE: There is one important policy of which you should be aware. As we have explained, PRW is generally work that was performed in the past 15 years. However, we have a special rule for CDRs. We do not count work a person is doing or has done during a current period of entitlement based on

[32] There are certain specific and very limited exceptions to the requirement for showing medical improvement. See 20 CFR 404.1594(d) and (e), 416.994(b)(3) and (4), and 416.994a(e) and (f).
[33] There is no corresponding provision for children under Title XVI.
[34] 20 CFR 404.1594(b)(7), 416.994(b)(1)(vii), and 416.994a(b)(1).
[35] 20 CFR 404.1594(c)(2), 416.994(b)(2), and 416.994a(c).

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disability as PRW when an ALJ determines whether the individual's disability has ended and must determine:

- Whether the individual has regained the ability to do any PRW, or
- Whether the individual has regained the ability to do other work.

See 20 CFR 404.1594(i) and 416.994(b)(8).

Age-18 Redeterminations

Title XVI of the Act requires that we "redetermine" the eligibility of individuals who were eligible for a Title XVI (SSI) payment as a child when they reach age 18. The Act specifies that we must use the rules we use when we determine initial disability in adults, and not the medical improvement review standard we use in CDRs. Under our regulations, for age-18 redeterminations, we use the adult sequential evaluation process we use to evaluate disability in initial adult claims, except that we do not use step 1 (Is the claimant engaging in SGA?). 20 CFR 416.987. Any testimony you give in these cases will be the same kind of testimony you give in initial adult claims.

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The Medical-Vocational Guidelines in Appendix 2 to Subpart P of Part 404 (the "Grid Rules")

Our rules for determining disability at step 5 are very complex, and it would be impossible to explain them all in this handbook. Most of your testimony will be in cases involving determinations at step 5, so it is important that you read Appendix 2 (the *Medical-Vocational Guidelines,* or "grid rules"), the other regulations about how we make determinations at step 5,[36] and the SSRs we list at the end of this handbook, to gain an understanding of what the ALJ will consider and ask you to testify about.

We begin with an overview of the grid rules and how the ALJ will make decisions using them. We follow with definitions of the vocational factors and other terms we use at this step and under the grid rules.

The most important thing to remember is that the ALJ cannot rely on your testimony if it is inconsistent with or contradicts our rules, so you must be aware of our various definitions and of how the grid rules work.

Introduction to the Grid Rules

In legal terms, the claimant generally has the "burden" of proving his or her disability claim. However, our rules provide that SSA has a limited burden of providing evidence that work exists in significant numbers in the national economy that the claimant can do given his or her RFC and vocational factors, when we find that a claimant is not disabled at step 5 of the sequential evaluation process. Proper application of the grid rules can satisfy this burden. The grid rules provide necessary supporting evidence of the existence of work in the national economy. They also help to ensure consistent decisionmaking at step 5. Nevertheless, VEs are also an important source of information about the existence of work and claimants' abilities to adjust to other work. ALJs frequently use VEs to help them make their decisions at step 5.

The grid rules take *administrative notice* of the existence of unskilled jobs in the national economy so that the ALJ does not need to obtain other evidence of the existence of such work in every case that he or she denies at step 5. The regulations establish that there are approximately 200 unskilled sedentary occupations, 1,400 light unskilled occupations (or a total of 1600 sedentary and light occupations), and 900 medium unskilled occupations (or a total of 2500 sedentary, light, and medium occupations), with each

[36] See page 19 and the List of References.

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occupation representing numerous jobs in the national economy. This information was established by various vocational resources SSA consulted when the rules were issued and at various times since; because the information has already been established in our regulations, we can take "administrative notice" of it without have to prove it again in every case.

Appendix 2 provides both a series of general and specific narrative guidelines for considering the effects of RFC, age, education, and work experience in determining whether an individual can make an adjustment to other work, and three "tables" that contain the specific rules. Each table addresses a different "maximum sustained work capability" or RFC; sedentary unskilled occupations (Table No. 1), light unskilled occupations (Table No. 2), and medium unskilled occupations (Table No. 3). Within each table are rules for people with the defined exertional RFC for the table and different combinations of age, education, and previous work experience.[37] When all of the facts of an individual's case match with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled.

In order to do the *full range* of unskilled work in each of the exertional categories in the three tables,[38] the individual must have the capability to do all or substantially all occupations existing at an exertional level required of the work as defined in our regulations and SSRs. Additionally, he or she must not have any nonexertional limitations (physical or mental) that would significantly reduce the number of occupations in one of the tables.

When an individual has an exertional or nonexertional limitation(s) that significantly affects the ability to do the full range of work that is administratively noticed in a table, the rules in the table do *not* direct the decision as to whether the person is or is not disabled. In those cases, the ALJ must use the rules as a *framework* for decisionmaking. The ALJ may obtain VE evidence to help determine whether there are jobs that exist in significant numbers in the national economy that the claimant can do. However, an ALJ may not rely on evidence provided by a VE if that evidence is based on underlying assumptions or definitions that are inconsistent with our regulatory policies or definitions.

To illustrate how the grid rules work, we provide an excerpt from Table No. 2, which we use in cases in which the claimant has the RFC for "light" work.

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[37] Note that the tables do not cover every possible combination of factors.
[38] That is, all or almost all of the 200 sedentary unskilled occupations; 1600 sedentary and light unskilled occupations; or 2500 sedentary, light, and medium unskilled occupations.

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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)

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.

*"Do." is an abbreviation for "Ditto."

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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.
202.22	.....do.....	.....do.....	Skilled or semiskilled—skills transferable	Do.

As you can see in the table excerpt, the older a claimant is, the issue of work adjustment becomes more significant. For example, under rules 202.13-202.15, we would not find a 54-year-old[39] high school graduate who can do the full range of light work disabled, regardless of his or her work experience. At age 55,[40] we would find the same person disabled, unless he or she has skills that are transferable to skilled or semiskilled work that is within his or her RFC. Education, including literacy and the ability to communicate in English, can also have an effect on the disability decision; see rule 202.09.

In many cases, the rules do not direct a decision. For example, under our definition of "sedentary" work, a claimant must be able to sit for approximately 6 hours in an 8-hour workday on a sustained basis in order to do the full range of sedentary work. In order to do the full range of light work, a claimant must be able to stand and walk for a total of approximately 6 hours in an 8-hour workday on a sustained basis. In many cases, the rules do not direct a decision. For example, a claimant's exertional limitations might fall between the exertional levels of sedentary and light work, such that the claimant might not be able to perform the "full range" of sedentary or light unskilled work represented by the rules. In such cases, the ALJ cannot use a grid rule to "direct" the decision.

In such cases, an ALJ may ask you to testify about the existence of occupations that a claimant with this RFC could do and about the claimant's ability to make an adjustment to other work considering the claimant's age, education, and any past relevant work experience. You will also have to be prepared to provide estimates of the number of jobs within each occupation both locally and nationally, whether the occupations are described in the *DOT,* and if they are, whether your description of the occupation is consistent with the *DOT's* description. Your testimony must also be consistent with our regulatory definitions and requirements, including the grid rules. For example, as we illustrated above, under the grid rules a 55-

[39] That is, "closely approaching advanced age." See definitions in section 2 below.
[40] That is, "advanced age."

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year-old high school graduate who can do the *full* range of light and sedentary work is disabled unless he or she has transferable skills. Therefore, you should not testify that there are sedentary or light occupations that a hypothetical 55-year-old high school graduate who is limited to *less than* the full range of light work can do.[41]

VEs can also be especially helpful in cases in which claimants have only nonexertional limitations or both nonexertional and exertional limitations. For example, claimants with mental impairments and no physical limitations generally have the *exertional* capability to do work at every exertional level, including heavy and very heavy work, but may not be able to do every job that we take administrative notice of because of limitations from their mental disorders; *e.g.*, they may not be able to do jobs that require frequent interaction with the public. In such cases, the ALJ may ask you for information about the effect of the impairment on the individual's *occupational base*, a term we use to describe the number of occupations that an individual is capable of performing. See SSRs 83-10 and 85-15.

As noted above, at the hearing, you must be prepared to cite, explain, and furnish any sources relied upon in your testimony.

In the following sections, we provide brief definitions and guidance about the three vocational factors, the exertional levels of work, and our concepts of work "skills" and transferability. You should not rely on the descriptions in this handbook. It is essential that you become thoroughly familiar with the important policy statements we list at the end of this handbook. The information below is simply to give you a brief introduction to our terms and related rules, and the kinds of questions you can expect to be asked at an ALJ hearing.

Vocational Factors

Under our rules for step 5, there are three *vocational factors* the ALJ must consider: *age*, *education*, and *work experience*.[42]

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[41] This is only a simple illustration of how you have to be aware that the grid rules might not match up with your experience in placing people in jobs. In a case like this, an ALJ would not need your testimony because the "framework" of the rules would establish that the claimant is disabled: the claimant would be disabled under the grid rules even if the ALJ found that he or she could do *more* than he or she could actually do. You should also know that an ALJ cannot use your testimony to rebut the conclusions in the grid rules. In the example in the text above, the ALJ cannot make a decision contrary to the mandate of the grid rules even if you are able to name occupations that the claimant can do.

[42] The vocational factors apply only at step 5. Even though we consider a claimant's previous work (PRW) at step 4, it is a different sort of inquiry, based solely on the claimant's RFC. We use the vocational factors at step 5, together with RFC, to determine

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a. Age

Age refers to a claimant's chronological age. We consider advancing age to be an increasingly limiting factor in the person's ability to make an adjustment to other work.

Our regulations use three broad age categories, although there are subcategories in two of them that apply in some cases.[43]

- Younger Person: Claimants under age 50. We also have a rule for some claimants who are age 45-49 and who are illiterate in English or unable to communicate in English.

- Person Closely Approaching Advanced Age: Claimants age 50-54.

- Person of Advanced Age. Claimants age 55 or older. We also have separate rules for some claimants in this category who are *closely approaching retirement age* (age 60 or older).

20 CFR 404.1563 and 416.963.

b. Education

Education primarily means formal schooling or other training that contributes to a claimant's ability to meet vocational requirements (for example, reasoning ability, communication skills, and arithmetical ability). Our rules provide that lack of formal schooling does not necessarily mean that the claimant is uneducated or lacks abilities achieved in formal education, although the ALJ will use the claimant's formal education level if there is no evidence to contradict it.

Our rules recognize that the importance of a claimant's education may depend on how much time has passed between the completion of formal education and the alleged onset of disability. The ALJ may also consider what the claimant has done with his or her education in a work or other setting (*e.g.*, in hobbies). The rules provide the ALJ with the authority to determine that a given claimant's education is higher or lower than the

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whether a claimant can make an adjustment to other work in the national economy; *i.e.*, work he or she has not done before.

[43] However, our regulations provide that we do not apply the age categories mechanically in a borderline situation. 20 CFR 404.1563(b) and 416.963(b). It is the ALJ's responsibility to determine when to use an age category that is different from the claimant's chronological age.

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actual grade he or she attained depending on a variety of factors, but such a finding is unusual.

The term "education" also includes how well the claimant is able to communicate in English since this ability is often acquired or improved by education.

Our regulations define five educational categories:[44]

- Illiterate: The claimant cannot read or write a simple message, such as instructions or inventory lists, even if the claimant can sign his or her name.

- Inability to communicate in English: The claimant does not speak and understand English.

- Marginal Education: Generally, formal schooling at the 6th grade level or below. Marginal education means ability in reasoning, arithmetic, and language skills that are needed to do simple, unskilled types of jobs.

- Limited Education: Generally, formal schooling at the 7th through 11th grade level. Limited education means ability in reasoning, arithmetic, and language skills, but not enough to allow a person to do most of the more complex job duties needed in semi-skilled or skilled jobs.

- High School Education or Above: Generally, high school graduate or above. The term includes high school equivalency diplomas. We generally consider that someone with these educational abilities can do semi-skilled through skilled work.

20 CFR 404.1564 and 416.964.

c. Work Experience

Work experience means the claimant's PRW.[45]

The ALJ will often ask you the following questions about a claimant's work experience:

[44] However, note that the grid rules treat illiteracy and inability to communicate in English as a single category.
[45] See the "Step 4" discussion on page 18.

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- The *exertional level* of the occupation (in terms of "sedentary," "light," "medium," "heavy," and "very heavy"),
- The *specific exertional and nonexertional physical and mental requirements* of the occupation,
- The *skill level* of the occupation, and
- If the occupation was semiskilled or skilled, the *skills* the claimant used in the occupation and whether any of those skills are *transferable* to other occupations that are within the claimant's RFC.[46]

20 CFR 404.1565 and 416.965.

The ALJ may ask you these questions from the perspective of the job duties as described by the claimant, as described in the *DOT,* and based on your professional experience. At the hearing, be prepared to cite, explain, and furnish any sources you rely upon in your testimony.

Exertional Categories

As we have already noted, we use the same terms as the *DOT* to categorize occupations according to their strength demands. We define these terms in our regulations and rulings, and you must be familiar with our definitions. **The ALJ cannot accept any testimony you give that is inconsistent or conflicts with SSA's definitions.**

We have a number of instructions that define the exertional categories. The following is only a brief summary of key features of our definitions. It is essential that you read and become familiar with the definitions in the policy documents we list at the end of this handbook.

- Sedentary Work: Sedentary occupations generally require sitting for up to 6 hours in an 8-hour workday. Although sedentary jobs involve sitting, a certain amount of walking and standing is often necessary to carry out job duties. Periods of standing or walking should generally total no more than about 2 hours out of an 8-hour workday. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket

[46] We define the terms in this list in the sections that follow.

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files, ledgers, and small tools.[47] Most unskilled sedentary jobs require good use of both hands and the fingers (bilateral manual dexterity) and sufficient vision to work with small objects.

- 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.[48] Even though the weight the claimant may lift may be very little, a job is in the "light" 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. Since frequent lifting or carrying requires an individual to be on his or her feet up to two-thirds of a workday, the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday. Sitting may occur intermittently during the remaining time. We consider that, if a claimant can do the full range of light work, he or she can also do the full range of sedentary work, unless there is some other limiting factor, such as loss of fine dexterity or inability to sit for long periods of time. While light occupations require use of the arms and hands to grasp and to hold and turn objects, they generally do not require use of the fingers for fine activities to the extent required in much sedentary work.

- 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. A full range of medium work requires standing or walking for a total of approximately 6 hours in an 8-hour work day. Medium work generally requires use of the arms and hands only to grasp, hold, or turn objects. It also often requires both considerable lifting and frequent bending or stooping.

- 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.

- Very Heavy: Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting and carrying of objects weighing 50 pounds or more.

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[47] *Occasionally* means occurring from very little up to one-third of the workday, or up to about 2 hours out of an 8-hour workday.
[48] *Frequent* means occurring from one-third to two-thirds of the workday, or about 2-6 hours out of an 8-hour workday.

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Skill Levels

Our rules classify work as *skilled, semiskilled,* and *unskilled.* A *skill* is knowledge of a work activity that requires the exercise of significant judgment beyond the carrying out of simple job duties. Skills are practical and familiar knowledge of the principles and processes of an art, science, or trade, combined with the ability to apply them in practice in a proper and approved manner. This includes activities like making precise measurements, reading blueprints, and setting up and operating complex machinery. A skill gives a person a special advantage over unskilled workers in the labor market. Skills are generally acquired through the performance of an occupation which is above the unskilled level. Under SSA's rules, *a claimant cannot gain skills from performing unskilled work*.[49]

We distinguish "skills" from worker "traits." Traits are inherent qualities that a worker brings to the job, such as good eyesight or good eye-hand coordination. When an ALJ asks you whether a claimant has a "skill," you must be careful not to confuse the two terms. For example, the *traits* of coordination and dexterity may be contrasted with a *skill* in the use of the hands or feet for the rapid performance of repetitive work tasks. It is the acquired capacity to perform the work activities with facility that gives rise to potentially transferable skills.

You must be prepared to classify the claimant's past relevant work and any jobs that you identify in response to hypothetical questions (see page 35) as "skilled," "semiskilled," or "unskilled," as defined in our regulations and SSRs. These descriptions of the skill levels are based on the *DOT*'s specific vocational preparation (SVP) ratings for each described occupation. Unskilled work corresponds to an SVP of 1-2; semiskilled work to an SVP of 3-4; and skilled work to an SVP of 5-9. In general, we use the following definitions:

- 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, usually 30 days or less. For example, unskilled occupations include work where the primary work duties are handling, feeding, and off-bearing, or machine tending in which a person can usually learn to do the job in 30 days or less, and little specific vocational preparation and judgment are needed. ***A person does not gain work skills by doing unskilled jobs***.

[49] Our rules also provide for the possibility that a claimant may have gained skills from education that provides for direct entry into skilled work, although this is rare in our cases.

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- Semiskilled Work: Semiskilled occupations are more complex than unskilled ones and simpler than the more highly skilled types of occupations. They contain more variables and require more judgment than unskilled occupations. Even though semiskilled occupations typically require more than 30 days to learn, the content of work activities in some semiskilled occupations may be little more than unskilled. Therefore, close attention must be paid to the actual complexities of the job in dealing with data, people, or objects and to the judgments required to do the work. Semiskilled occupations may require alertness and close attention to machine processes; inspecting, testing or looking for irregularities; tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities that are similarly less complex than skilled work, but more complex than unskilled work. An occupation may be classified as semiskilled when coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks.

- Skilled Work: Skilled occupations are more complex and varied than unskilled and semiskilled occupations. They require more training time and often a higher educational attainment. Abstract thinking in specialized fields may be required. For example, skilled work may require 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; laying out work, estimating quality, determining the suitability and necessary quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work; or dealing with people, facts, figures, or abstract ideas at a high level of complexity.

Transferability of Skills

As you become more familiar with the grid rules, you will see that in many cases the skill level of a claimant's PRW does not affect the decision; *i.e.*, the decision will be the same regardless of whether the claimant's PRW was unskilled or involved skills and whether the claimant has skills he or she can use in other work. However, as we have already noted, there are some situations in which a determination regarding transferability of skills can be decisive. In simple terms, *transferable skills* are skills that a claimant has from PRW that he or she can no longer perform but can use in other skilled or semiskilled work that is within his or her RFC.

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Under our rules, transferability depends largely on the similarity of occupationally significant work activities among different jobs. Transferability is found most probable and meaningful among jobs in which:

- The same or a lesser degree of skill is required (from a skilled to a semiskilled or another skilled job, or from one semiskilled to another semiskilled job), because the claimant is not expected to perform more complex jobs than he or she performed in the past;
- The same or similar tools and machines are used; and
- The same or similar raw materials, products, processes or services are involved.

20 CFR 404.1568 and 416.968; and SSR 82-41.

Generally, the greater the degree of acquired work skills, the less difficulty the claimant will have in transferring skills to other jobs, except when the skills are such that they are not readily usable in any other industries, jobs, and work settings. Reduced RFC and advancing age are important factors associated with transferability because reduced RFC limits the number of occupations an individual can do, and advancing age decreases the possibility of making a successful vocational adjustment. In this regard, we have strict rules regarding transferability for some claimants who are at least 55 years old and even stricter rules for some claimants beginning at age 60.

When you are reviewing the evidence for the case before the hearing or in connection with interrogatories, you should note whether the claimant has any skilled or semiskilled PRW. If so, you should also be prepared to describe the skills. The ALJ may also pose hypothetical questions to you that assume one or more different RFC assessments, and you should be prepared to cite occupations to which the skills may be transferred or to explain why there are no transferable skills. If the claimant is age 55-59 or age 60 and older, you must also be prepared to testify about whether there is transferability under the rules for claimants of those ages.

Hypothetical Questions

In addition to questions requesting factual information—such as how the *DOT* describes the duties of a particular occupation—ALJs will often ask you hypothetical questions (often referred to as "hypotheticals"). As we explained earlier, ALJs do not know what their decisions will be when they enter the hearing. Therefore, in many cases, the ALJ will not have

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determined what the claimant's RFC is when he or she asks you for opinions about work.

Because of this, the ALJ will phrase some of his or her questions to you in hypothetical terms, posing potential findings in terms like this: "Assume an individual of the claimant's age, education level, and past work experience. If that person can sit for so many hours, stand for so many hours, lift so many pounds, and has the following mental limitations…"[50] The ALJ may ask you more than one such hypothetical question. Often, ALJs provide a hypothetical that assumes that they agree with all of a claimant's allegations and at least one other that assumes that they disagree to some extent or in certain particulars; for example, that the claimant has limitations in lifting weights, but not to the extent he or she alleges.

The first hypothetical may be about step 4 of the sequential evaluation process; that is, whether a person with hypothetical physical and mental limitations the ALJ specifies could do the claimant's PRW. More often, the ALJ will ask hypotheticals that will help him or her determine at step 5 whether the claimant can make an adjustment to other work that exists in the national economy, considering the claimant's age, education, work experience, and RFC. The ALJ will specify what facts you are to assume.

If you respond to a hypothetical that there are occupations the hypothetical individual can perform given the facts assumed, the ALJ will then ask you to give examples of those occupations. You should be prepared to provide:

- At least three examples (if possible), with an explanation of why you believe that the individual would be able to do the jobs given the hypothetical facts.

- Information about the numbers of jobs in each occupation nationally. Some ALJs may inquire about local job numbers (*e.g.*, by state or region). Remember that it does not matter whether work exists in the immediate area in which the claimant resides, whether he or she would actually be hired, or if a specific vacancy exists. Rather, it only matters how many of the jobs exist in the national economy.

- The *DOT* numbers for the occupations if they are listed in the *DOT,* and whether there are any conflicts or apparent conflicts between the description of an occupation in the *DOT* and your testimony. See section 7 below for more information about this subject.

[50] The ALJ may even refer to a hypothetical claimant.

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You **must** not give your opinion about:

- The claimant's diagnosis, prognosis, physical and mental limitations or restrictions, or any other medical issue.
- Whether the number of jobs within a given occupation is "significant."
- The claimant's residual functional capacity.
- Whether the claimant is disabled.

The ALJ will decide these issues. If you are asked your opinion about any of these issues, you should not answer.

The ALJ will also give the claimant and his or her representative a chance to ask you questions. They may ask you hypotheticals as well.

If you believe that any hypothetical question is incomplete (*e.g.*, a hypothetical does not adequately describe the functional abilities of a hypothetical person for you to determine whether there is work they could do), you should ask the ALJ for clarification before you answer.

You should be prepared to provide a complete explanation for your answers to hypothetical questions and other questions. You should have available, at the hearing, any vocational resource materials that you are likely to rely upon and should be able to thoroughly explain what resource materials you used and how you arrived at your opinions. In some cases, the ALJ may ask you to provide relevant portions of materials you rely upon.

SSR 00-4p: Your Testimony, the *DOT,* and SSA's Rules

There is one more very important policy you must know about, set out in SSR 00-4p. Generally, occupational evidence you provide should be consistent with the *DOT*. SSR 00-4p provides that the ALJ must ask you about any possible conflict between the information you provide and the information in the *DOT*. If there is an inconsistency or conflict—or even an apparent inconsistency or conflict—between your testimony and a description in the *DOT,* the ALJ must ask you for a reasonable explanation

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for the difference (or apparent difference) between your testimony and the description in the *DOT.*

It is important that you identify these conflicts, if any, to the ALJ. The ALJ is required to elicit an explanation from you for any conflict or apparent conflict between occupational information you provide and the information in the *DOT*. Neither VE testimony nor *DOT* information automatically "trumps" when there is a conflict. However, the ALJ cannot rely on such testimony without eliciting your explanation and documenting whether it provides a reasonable basis for relying on your testimony rather than the conflicting *DOT* information. SSR 00-4p provides examples of common reasons for conflicts between VE testimony and the *DOT* including, but not limited to the follow scenarios:

- Your testimony may include information that is not listed in the *DOT*. The *DOT* contains information about most, but not all, occupations. The *DOT's* occupational definitions are the result of comprehensive studies of how similar jobs are performed in different workplaces. The term "occupation," as used in the *DOT*, refers to the collective description of those jobs. Each occupation represents numerous jobs. Information about a particular job's requirements or about occupations not listed in the *DOT* may be available in other reliable publications, information obtained directly from employers, or from your experience in job placement or career counseling. You should be prepared to explain why your sources are reliable.

  NOTE: During your testimony, maintain easy access to any sources you rely upon, as the ALJ, claimant, or representative may have questions about your sources. Particularly, any sources outside of those listed under 20 CFR 404.1566(d) and 416.966(d).

- The *DOT* lists maximum requirements of occupations as generally performed, not the range of requirements of a particular job as it is performed in specific settings. You may be able to provide more specific information about how jobs or occupations are performed than in the *DOT*.

You must also be alert to apparent conflicts. For example:

- Descriptions of jobs in the *DOT* may refer to job materials or processes that have been replaced by more modern materials or processes. If you name an occupation that currently exists but that is performed differently from the way the *DOT* describes it, you should explain that

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there is a difference between the way the job is performed now (an apparent conflict) and explain it.

- An ALJ's hypothetical may limit the claimant to "simple" or "repetitive" tasks, and you identify jobs with a GED[51] reasoning level of 3 or higher. There is an apparent conflict between a job that requires reasoning level 3, and a hypothetical individual that can perform only "simple" or "repetitive" tasks.[52] Be prepared to explain how the hypothetical individual could perform this job.

- An ALJ's hypothetical may contain some type of reaching limitation, for example, occasional overhead reaching. You identify a job that requires some degree of reaching, although perhaps not overhead. There is an apparent conflict if a job requires reaching, and a hypothetical claimant that cannot perform overhead reaching. Be prepared to explain how a person with the claimant's particular reaching limitation can perform the cited job(s).

It is also important to remember a principle we have stated earlier in this handbook: the ALJ cannot accept an explanation from you that conflicts with our policies. For example:

- You may reasonably classify the exertional demands of an occupation you name differently than in the *DOT* based on other reliable occupational information, including your own experience; *e.g.*, describing a particular occupation as "light" when the *DOT* classifies it as "medium." However, you may not redefine our terms for the exertional levels. For example, if all available evidence (including your testimony) establishes that the exertional demands of an occupation meet our regulatory definition of "medium" work (20 CFR 404.1567 and 416.967), the ALJ would not be able to rely on your testimony that the occupation is "light" work.

[51] Appendix C to the DOT describes the General Education Development (GED) Scale, composed of three divisions: Reasoning Development, Mathematical Development, and Language Development. The GED Scale includes six levels of Reasoning Development, ranging from level 1 (the least complex level) to level 6 (the most complex level). The DOT assigns a reasoning level to most occupations.

[52] An occupation with reasoning level 3 requires individuals to "[a]pply commonsense understanding to carry out instructions furnished in written, oral, or diagrammatic form. Deal with problems involving several concrete variables in or from standardized situations." It could be argued that occupations requiring reasoning level 3 are too complex for an individual limited to "simple" or "repetitive" tasks. Therefore, an apparent conflict exists.

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- Similarly, our definitions of skill levels are controlling. Again, there may be a good reason for classifying an occupation's skill level differently than in the *DOT,* but an ALJ would not accept your testimony if you said that unskilled work involves complex duties that take many months to learn, because that is inconsistent with our regulatory definition of unskilled work in 20 CFR 404.1568 and 416.968.

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Interrogatories

As we have already noted, we may ask you to respond in writing to specific written questions referred to as *interrogatories*. You may receive interrogatories from the ALJ, but you may also receive interrogatories from hearing office staff before a case is assigned to an ALJ for a hearing.

After the case is assigned to an ALJ, you may receive interrogatories from the ALJ before or after the hearing. You may receive a copy of evidence—especially new evidence—pertinent to the interrogatories or a summary of case information. If you provide responses to interrogatories before a hearing, the ALJ may or may not ask you to also appear and testify at a hearing.

An ALJ may also send you interrogatories that were posed by the claimant or the claimant's representative. The ALJ must approve any interrogatories proposed by a claimant or representative. You should never answer interrogatories submitted directly to you from the claimant or his or her representative, and you should send your responses to interrogatories only to the ALJ. The ALJ and his or her staff will ensure that the claimant and his or her representative receive a copy.

Usually, the interrogatories will be in the form of a questionnaire. You may type or legibly write your responses directly on the questionnaire if space permits. If you need more space to answer a question, attach separate sheets of paper with your responses. You should answer all questions completely. It is especially important that you explain and support your responses with references to specific evidence in the case record you received from the hearing office. Identify the reports in which the information is contained. All correspondence between you and the ALJ will become part of the official case record.

If you have a question about any of the interrogatories, you should request clarification from the ALJ (or the Hearing Office Chief Administrative Law Judge if the case is not yet assigned to a particular ALJ) in writing.[53] If you cannot answer a particular question or cannot answer it completely because of conflicts in the evidence or because the evidence is incomplete, you should respond by explaining why you cannot answer the question. If possible, you should also provide an opinion and recommendation to the ALJ about what evidence he or she could obtain to resolve the conflict or complete the record.

[53] Any requests for clarification should be in writing, not over the phone or through other means.

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If the interrogatories relate to new evidence the ALJ received after you testified or responded to other interrogatories, you should state whether the new evidence changes any of your prior responses and why.

Note that in all cases, the ALJ will submit the questions and your responses for review to the claimant's representative (if the claimant has a representative) with a copy to the claimant (or just to the claimant if unrepresented). The claimant has the right to request a supplemental hearing or to produce other information, to rebut any of your responses.

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List of References

Social Security's regulations are compiled in Title 20 of the *Code of Federal Regulations*. Social Security Rulings (SSR) are published by the Commissioner to explain and give detail to principles set out in the Social Security Act and regulations. The following is a list of regulation sections and SSRs with which you should be familiar. Familiarity with the regulations and SSRs is essential to a complete understanding of the role of vocational evidence in Social Security disability adjudication. However, we do not intend this list to be a complete reference to all Social Security policy related to disability benefits. The ALJ will tell you if there are other policy statements with which you must be familiar in a given case.

You can find the full text of the Act, regulations, SSRs, and other instructions online at https://www.socialsecurity.gov/regulations/. You can also find a link to these sources and other resources at: https://www.socialsecurity.gov/disability/.

- To go directly to the regulations that start with the number "404" (Part 404 – Title II), go to this page: https://www.socialsecurity.gov/OP_Home/cfr20/404/404-0000.htm.

- The table of contents for the Part 416 (Title XVI) regulations is on this page: https://www.socialsecurity.gov/OP_Home/cfr20/416/416-0000.htm.

- To find the SSRs by year, go to this page: https://www.socialsecurity.gov/OP_Home/rulings/rulfind1.html. The first number in an SSR citation is the year of publication. For example, SSR 96-8p was published in 1996.

The grid rules are found at 20 CFR Part 404, Subpart P, Appendix 2: https://www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm.

> **Note**: SSA keeps the online "Blue Book" (*Disability Evaluation Under Social Security*) up to date, while we update the listings in the regulations link above only once a year. We prefer that you refer to the online "Blue Book" to ensure that you are considering the most recent version of the listings.

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Regulation sections

20 CFR 404.1520, *Evaluation of disability in general*

20 CFR 416.920, *Evaluation of disability of adults, in general*

20 CFR 404.1545 and 416.945, *Your residual functional capacity*

20 CFR 404.1560 and 416.960, *When we will consider your vocational background*

20 CFR 404.1563 and 416.963, *Your age as a vocational factor*

20 CFR 404.1564 and 416.964, *Your education as a vocational factor*

20 CFR 404.1565 and 416.965, *Your work experience as a vocational factor*

20 CFR 404.1566 and 416.966, *Work which exists in the national economy*

20 CFR 404.1567 and 416.967, *Physical exertion requirements*

20 CFR 404.1568 and 416.968, *Skill requirements*

20 CFR 404.1569, *Listing of Medical-Vocational Guidelines in appendix 2*, and 416.969, *Listing of Medical-Vocational Guidelines in appendix 2 of subpart P of part 404 of this chapter*

20 CFR 404.1569a and 416.969a, *Exertional and nonexertional limitations*

Social Security Rulings

SSR 82-40
Titles II and XVI: The Vocational Relevance of Past Work Performed in a Foreign Country

SSR 82-41
Titles II and XVI: Work Skills and Their Transferability as Intended by the Expanded Vocational Factors Regulations effective February 26, 1979

SSR 82-61
Titles II and XVI: Past Relevant Work — The Particular Job or the Occupation as Generally Performed

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SSR 82-62
Titles II and XVI: A Disability Claimant's Capacity to Do Past Relevant Work, In General

SSR 83-5a
Sections 205, 216(i), 223(d), and 1614(a)(3) (42 U.S.C. 405, 416(i), 423(d), and 1382c(a)(3)) Disability — Medical-Vocational Guidelines — Conclusiveness of Rules

SSR 83-10
Titles II and XVI: Determining Capability To Do Other Work — The Medical-Vocational Rules of Appendix 2

SSR 83-11
Titles II and XVI: Capability to Do Other Work — The Exertionally Based Medical-Vocational Rules Met

SSR 83-12
Titles II and XVI: Capability To Do Other Work — The Medical-Vocational Rules as a Framework for Evaluating Exertional Limitations Within a Range of Work or Between Ranges of Work

Note: SSR 83-13 was replaced by SSR 85-15 in 1985

SSR 83-14
Titles II and XVI: Capability to Do Other Work — The Medical-Vocational Rules as a Framework for Evaluating a Combination of Exertional and Nonexertional Impairments

SSR 85-15
Titles II and XVI: Capability To Do Other Work — The Medical-Vocational Rules as a Framework for Evaluating Solely Nonexertional Impairments

SSR 86-8
Titles II and XVI: The Sequential Evaluation Process

SSR 96-8p
Policy Interpretation Ruling Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims

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SSR 96-9p

Policy Interpretation Ruling Titles II and XVI: Determining Capability to Do Other Work — Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work

SSR 00-4p

Titles II and XVI: Use of Vocational Expert and Vocational Specialist Evidence, and Other Reliable Occupational Information in Disability Decisions

SSR 03-3p

Policy Interpretation Ruling — Titles II and XVI: Evaluation of Disability and Blindness in Initial Claims for Individuals Aged 65 or Older

SSR 11-2p

Titles II and XVI: Documenting and Evaluating Disability in Young Adults