Revisions To Rules Regarding The Evaluation Of Medical Evidence

On January 18, 2017, SSA published the final rules "Revisions to Rules Regarding the Evaluation of Medical Evidence" in the Federal Register (82 FR 5844). The final rules became effective on March 27, 2017. This page has helpful resources for the public to become familiar with the rules. Additional detailed resources are found at the bottom of this page.

Q1: Why did we publish this regulation?

A1: This regulation conforms our rules to the requirements of the Bipartisan Budget Act of 2015 (BBA), reflects changes in the national healthcare workforce and in the manner that individuals receive medical care, and emphasizes the need for objective medical evidence in disability and blindness claims. We expect that these changes will simplify our rules to make them easier to understand and apply, and it will allow us to continue to make accurate and consistent disability determinations and decisions.

Q2: What does this regulation do?

A2: We revised our medical evidence rules. The revisions include redefining several key terms related to evidence, revising our rules about acceptable medical sources (AMS), revising how we consider and articulate our consideration of medical opinions and prior administrative medical findings, revising our articulation requirements for other kinds of evidence, revising our rules about medical consultants (MC) and psychological consultants (PC), revising our rules about treating sources, and reorganizing our evidence regulations for ease of use.

Q3: When did the changes in the regulation become effective?

A3: The regulation became effective on March 27, 2017. For claims filed on or after March 27, 2017, we will use all of the new policies introduced in the regulation. For claims filed before March 27, 2017, we will continue to follow some of the prior

policies for the lifecycle of the claim, including during a continuing disability review. We will maintain subregulatory guidance about how to determine the filing date of a claim at POMS DI 24503.050 Determining the Filing Date for Evaluating Evidence.

Q4: What changes did we make to the list of acceptable medical sources (AMS)?

A4: We added three new kinds of medical sources to the AMS list for claims filed on or after March 27, 2017. These medical sources include Advanced Practice Registered Nurses (APRN), audiologists, and physician assistants (PA) for impairments within their licensed scope of practice. We also updated criteria of several of the existing AMS sources to reflect current licensing, scope of practice, and credentialing requirements. Finally, we reduced the number of distinctions in our programs between AMSs and medical sources who are not AMSs for claims filed on or after March 27, 2017. We still require objective medical evidence from an AMS to establish the existence of a medically determinable impairment(s) at step 2 of the sequential evaluation process. Also, in a few instances, we need specific evidence from an AMS to establish that an individual's impairment meets a Listing.

Q5: Why did we not recognize additional medical sources as AMSs?

A5: We will continue to monitor licensure requirements for the medical sources that public commenters suggested that we add to the AMS list. At this time, however, we decided to add only APRNs, audiologists, and PAs as AMSs. Upon investigation of licensing requirements for other medical sources, we did not find a similar level of national consistency or rigor in terms of education, training, certification, and scope of practice.

Additionally, many of the public comments on the Notice of Proposed Rulemaking (NPRM) that asked us to recognize additional medical sources beyond the three we added as AMSs so that we could begin to consider their evidence in our adjudicative process. However, we currently consider all relevant evidence we receive from all medical sources regardless of AMS status, with the exception that we need objective medical evidence from an AMS to establish that an individual has a medically determinable impairment, as required by the Social Security Act (Act).

Q6: What changes did we make to our rules about establishing the existence of an impairment?

A6: We did not change our current policy that we need objective medical evidence from an AMS to establish that an individual has a medically determinable impairment, as required by the Act. We revised the definition of objective medical evidence to clarify that it means signs, laboratory findings, or both. We will

recognize APRNs, audiologists, and PAs as AMSs who can provide us with this objective medical evidence for claims filed on or after March 27, 2017. We also clarified that we cannot establish an impairment based on a diagnosis, symptoms, or a medical opinion. Finally, we made clarifying revisions to the existing definitions of signs and laboratory findings.

Q7: What changes did we make to our rules about medical consultants (MC) and psychological consultants (PC)?

A7: We revised our rules to conform to requirements of section 221(h) of the Act, as amended by BBA section 832. This law states that we must make every reasonable effort to ensure that a qualified physician (in cases involving a physical impairment) or a qualified psychiatrist or psychologist (in cases involving a mental impairment) completes the medical portion of the case review and any applicable residual functional capacity assessment. When we revised our rules, we did not change our current requirements about who can be a PC; however, we specified that only a licensed physician can be an MC.

Q8: What changes did we make to our rules about categorizing evidence?

A8: We will continue to consider all evidence we receive from all sources. We reorganized and redefined the categories of evidence to make them easier to understand and use in our administrative process. Each category of evidence has a specific definition and purpose. The categories of evidence are: (1) objective medical evidence, (2) medical opinions, (3) other medical evidence, (4) evidence from nonmedical sources, and (5) prior administrative medical findings. This chart summarizes the categories of evidence:

Category of Evidence	Source	Summary of Definition
Objective medical evidence	Medical sources	Signs, laboratory findings, or both
Medical opinion	Medical sources	A statement about what an individual can still do despite his or her impairment(s) and whether the individual has one or more impairment-related limitations or restrictions in one or more specified abilities
Other medical evidence	Medical sources	All other evidence from medical sources that is not objective medical evidence or a medical opinion

Evidence from nonmedical sources	Nonmedical sources	All evidence from nonmedical sources
Prior administrative medical finding	MCs and PCs	A finding, other than the ultimate determination about whether the individual is disabled, about a medical issue made by an MC or PC at a prior administrative level in the current claim

Q9: What changes did we make to the definition of a medical opinion?

A9: We changed the definition of "medical opinion" for claims filed on or after March 27, 2017. The new definition focuses upon medical sources' perspectives about individuals' functional abilities and limitations. This will make our evidence rules easier to use and apply, and it will improve our adjudicative process. The regulation says that all medical sources, regardless of whether the medical source is an AMS, can make medical opinions.
For claims filed before March 27, 2017, we retained the existing definition of a "medical opinion."

Q10: Why did we change our rules about considering medical opinions?

A10: We revised how we consider medical opinions to reflect modern healthcare delivery and to address adjudicative issues resulting from the current rules. First, the final rules reflect that individuals now often choose to receive evaluation, examination, and treatment from multiple medical sources, some of which may not be AMSs. Second, the current policies that focus upon weight, including the treating source rule, have resulted in reviewing courts focusing more on whether we sufficiently articulated the weight we gave opinions rather than on whether substantial evidence supports the Commissioner's final decision. We also changed our rules due to the application of the Ninth Circuit's use of a "credit-as-true" rule onto our treating source rule, which supplants the legitimate decisionmaking authority of our adjudicators and sometimes results in the court ordering us to award benefits instead of remanding the case for further proceedings. Under the final rules, it is our intent to make it clear that it is never appropriate to "credit-as-true" any medical opinion.

Q11: What changes did we make to our rules about considering medical opinions?

A11: The final rules clarify that we will continue to consider all evidence we receive,

including medical opinions. For claims filed on or after March 27, 2017, our rules about how we consider medical opinions will change. First, we will no longer give any specific evidentiary weight to medical opinions; this includes giving controlling weight to any medical opinion. Instead, we will consider the persuasiveness of medical opinions using the factors specified in our rules. Second, we will consider the supportability and consistency factors as the most important factors. Finally, we revised the factors we use to consider medical opinions. These factors are based upon the factors in our existing rules.

Q12: What changes did we make to our rules about providing written explanations about how we consider medical opinions?

A12: For claims filed on or after March 27, 2017, we revised our rules about articulating our consideration of medical opinions. First, we will articulate our consideration of medical opinions from all medical sources regardless of whether the medical source is an AMS. Second, we will always discuss the factors of supportability and consistency because those are the most important factors. Generally, we are not required to articulate how we considered the other factors set forth in our rules. However, when we find that two or more medical opinions or prior administrative medical findings about the same issue are equally well-supported and consistent with the record but are not exactly the same, we will articulate how we considered the other most persuasive factors. Third, we added guidance about when articulating our consideration of the other factors is required or discretionary. Fourth, we will discuss how persuasive we find a medical opinion instead of giving a specific weight to it. Finally, we will discuss how we consider all of a medical source's medical opinions together instead of individually.

Q13: What changes did we make to our rules about considering and providing written explanations about how we consider evidence from MCs and PCs?

A13: MCs and PCs make evidence we categorize as prior administrative medical findings. We will use the same rules for considering and articulating our consideration of prior administrative medical findings as we do for medical opinions, which we discuss above in questions 11 and 12.

Q14: What changes did we make to our rules about how we consider decisions from other governmental agencies and nongovernmental entities?

A14: For claims filed on or after March 27, 2017, we will not provide any written analysis in our determinations and decisions about how we consider decisions made by other governmental agencies or nongovernmental entities that an individual is

disabled, blind, or unemployable in any claim for disability or blindness under titles II and XVI of the Act because those decisions are inherently neither valuable nor persuasive to us. However, we will continue to consider relevant medical and other evidence that supports or underlies other governmental agencies' or nongovernmental entities' decisions that we receive based on the applicable evidence categories discussed above.

Q15: What changes did we make to our rules about how we consider statements on issues reserved to the Commissioner?

A15: We define a statement on an issue reserved to the Commissioner as a statement that would direct the determination or decision of disability, and we include a list of these statements in our rules. Because we are responsible for making the determination or decision about whether an individual meets the statutory definition of disability, a statement on an issue reserved to the Commissioner is inherently neither valuable nor persuasive to us. Therefore, for claims filed on or after March 27, 2017, we will not provide any analysis about how we considered such statements in our determinations and decisions.

Q16: What training are we providing to our adjudicators about the final rules?

A16: We are providing comprehensive training to all of our adjudicators. This training will include several videos that explain the new policies. We will also include separate targeted training about how to apply the new policies for adjudicators at the DDSs and at the hearings and Appeals Council levels.

Additional Resources

- Policy Guide
- Notice of Proposed Rulemaking
- Final Rules
- Final Rules, correction