(PPS-83)

SSR 82-60

SSR 82-60: TITLES II AND XVI: EVALUATION OF DRUG ADDICTION AND ALCOHOLISM

PURPOSE: To clarify the basic policy to be applied in the evaluation of title II and XVI disability claims where drug addiction or alcoholism is present.

CITATIONS (AUTHORITY): Sections 216(i)(1)(A), 223(d)(1)(A), 223(d)(2)(A), 1611(e)(3)(A), 1611(e)(3)(B), 1614(a)(3)(A), 1614(a)(3)(B), and 1631(a)(2), of the Social Security Act; Regulations No. 4, Subpart P, sections 404.1505- 404.1510, 404.1520-404.1522, 404.1525(e), 404.1545, 404.1563, 404.1512, 404.1513, and Appendix 1, Listing of Impairments, Part A, Subpart U, section 404.2001; Regulations No. 16, Subpart F, section 416.601; Subpart I, sections 416.905, 416.908, 416.910, 416.920-416.922, 416.945, 416.963, 416.912, 416.913, 416.935- 416.939, Subpart Q, sections 416.1720, and 416.1725.

PERTINENT HISTORY: The Social Security Administration's policy in evaluating disability where drug addiction or alcoholism is present has been subject to some misinterpretation. Questions have arisen as to whether drug addiction or alcoholism in and of themselves can be considered disabling, whether confinement for treatment of drug addiction or alcoholism is to be taken into consideration in determining whether a severe impairment exists, and what factors must be considered in determining the severity or lack of severity of the impairment.

There has also been some misunderstanding regarding how the title XVI (Supplemental Security Income) provisions affect, if at all, the process of evaluating disability. The regulation requires that a disabled person who is medically determined to be a drug addict or alcoholic and whose drug addiction or alcoholism is a contributing factor to his or her disability undergo prescribed treatment if available and have a representative payee.

POLICY STATEMENT: The definition of disability is the same under title II and title XVI. Also, the principles underlying the adjudication of disability claims from drug addicts or alcoholics are the same as those underlying the adjudication of claims from other any individual. Any determination that an individual meets the definition of disability must be based on sufficiently detailed medical evidence describing the severity of the impairment and, when appropriate, on other information such as the individual's vocational history. The medical evidence must describe an impairment which results from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. Furthermore, the impairment must be established by medical evidence consisting of symptoms, signs, and pertinent clinical and laboratory findings, not only by the individual's allegations or statement of symptoms. Finally, impairments must be of sufficient severity to meet or equal a listed impairment in Appendix 1 of Subpart P of Regulations No. 4 (incorporated by reference fir title XVI in section 416.925) or, considering appropriate vocational factors, to prevent the individual from performing past relevant work or any other work.

Drug addicts or alcoholics cannot be considered "disabled" on the basis of that diagnosis alone; on the other hand, a diagnosis of drug addiction or alcoholism should not have an effect on a disability

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evaluation that is adverse to the applicant. Drug addicts and alcoholics are subject to all the ills that may affect any other applicant. Drug addiction and alcoholism are diagnostic terms; they do not denote impairment value or severity. It is necessary to evaluate the severity of the impairment which may be associated with, manifested by, result from, or coexist with these diagnoses.

It must be recognized also that the issue of whether the individual has lost the ability to control the use of drugs or alcohol affects the matter of diagnosis. The loss of ability to control these substances identifies the individual as a drug addict or alcoholic diagnostically, but does not provide a conclusive basis for evaluating the severity of the impairment.

Confinement in an institution or other facility, whether for treatment or otherwise, may occur for reasons other than the severity of the impairment. Although the circumstances concerning the confinement must be determined and considered, confinement alone does not establish that the impairment is severe. Also, confinement which is the treatment prescribed by an appropriate treating source does not establish the presence or severity of an impairment. The presence of an impairment and its severity is established on the basis of the symptoms, signs, and pertinent clinical and laboratory findings appropriate to that impairment. Similarly, release from an institution or any other facility does not establish that an impairment has improved, or that an impairment is not severe.

Ultimately, the decision will depend upon the severity of the impairment, as properly documented by the required medical findings, and, for appropriate cases, the limitation of function imposed on the applicant by the impairment in conjunction with applicable vocational factors. An individual may be a drug addict or an alcoholic and not be disabled if the evidence fails to show inability to engage in substantial gainful activity.

The basic medical evaluation criteria are found in the Listing of Impairments (Appendix 1 to Regulations No. 4, Subpart P, and incorporated by reference in section 416.925 of Regulations No. 16. Subpart I). The introduction to the mental impairment listing, section 12.00, provides a comprehensive summary of the basic evaluation principles to be applied to cases involving mental disorders, including those where drug addiction or alcoholism is present. Drug addiction and alcoholism are found under functional nonpsychotic disorders, listing 12.04. Section 12.04 was revised in 1974 for title XVI (Supplemental Security Income) cases and in 1975 for title II cases to clarify the evaluation concept to be applied in mental cases involving drug addicts or alcoholics. The former listing 12.04G3 (addictive dependence to drug or alcohol with irreversible organ damage) was deleted at that time because it was frequently misunderstood. By some, it was considered a bar to finding drug addicts or alcoholics disabled regardless of the true severity of the impairment or impairments present. Others would erroneously find a severity of impairment based solely on the diagnosis of drug addiction or alcoholism in the presence of any organ damage. The deletion of listing 12.04G3 did not liberalize or change the disability standards for drug addicts or alcoholics. (Cases involving organ damage are evaluated under the particular body system.) As in all disability cases, the impairment must be assessed in view of the individual's total medical condition and its effect on his or her ability to function.

Adequate information must be obtained to permit proper evaluation of the individual's impairment(s). It is very important that relevant medical evidence -- including history, physical examination, and pertinent laboratory data -- be secured from treatment sources. If sufficient evidence for a decision is not available from these sources, an additional medical examination is required. It may be necessary for this examination to be performed by an internist, neurologist, psychiatrist, or other medical specialist, depending on the type of impairment(s) in question and the evidence which is needed.

The medical evidence is then evaluated to determine whether the individual's impairment, or impairments in combination, is of a level of severity and of expected duration to meet, or to be

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medically equivalent top, the Listing of Impairments. If any of these medical evaluation criteria are met or equaled, the individual is found to be disabled. If they are not, and the individual has a severe impairment, the impact of the impairment on his or her ability to work must be considered in terms of vocational factors such as age, education and prior work experience. Then, the decision as to disability is made.

Under both title II and title XVI, a claimant whose disability has been established must follow the treatment prescribed by a treating physician if the treatment could restore the ability to work. In addition, an individual whose disability has been established cannot refuse to accept vocational rehabilitation services without a good reason. Under title XVI, special conditions are required of individuals who are found disabled and for whom drug addiction or alcoholism is a contributing factor material to the finding of disability. These individuals are required (1) to undergo treatment appropriate to the condition of drug addiction or alcoholism at an approved institution or facility, when that treatment is available, and (2) to receive benefit payments through a representative payee. The chief purpose of the treatment and representative payee provisions for drug addicts and alcoholics under title XVI is to rehabilitate the individual to enable him or her to become a productive member of society and, thus, to remove the individual from the disability rolls.

Section 416.935 of the title XVI (Supplemental Security Income) regulations provide that an individual will be medically determined to be a drug addict or alcoholic only if he or she is under a disability (as defined in regulations section 416.905) and drug addiction or alcoholism is material to the finding of disability. The policy set forth in the regulations was developed following extensive consultations with other concerned Government agencies (e.g., the Alcohol, Drug Abuse and Mental Health Organizations, and the Special Action Office for Drug Abuse Prevention). A critical issue in applying the medically determined drug addiction or alcoholism provision under title XVI (i.e., undergoing appropriate, available treatment and receiving payments through a representative payee) is that the provisions are not applied until the adjudication of the claim results in a decision of disability. These special title XVI provisions only establish additional requirements after the individual is found disabled; they do not establish a different basis for evaluating disability for individuals who are drug addicts or alcoholics.

Where the definition of disability is met in a title XVI claim, and there is evidence of drug addiction or alcoholism, a determination must also be made as to whether the drug addiction or alcoholism was a factor material to the finding of disability for purposes of applying the treatment and representative payee provisions. In making this decision the key issue is whether the individual would continue to meet the definition of disability even if drug and/or alcohol use were to stop. If he or she would still meet the definition, drug addiction or alcoholism is not material to the finding of disability and the treatment and representative payee provisions do not apply. The drug addiction and alcoholism requirements are imposed only where (1) the individual's impairment(s) is found disabling and drug addiction and/or alcoholism is a contributing factor material to the determination of disability, and (2) the same impairment(s) would no longer be found disabling if the individual's drug addiction or alcoholism were eliminated, as, for example, through rehabilitation treatment.

EFFECTIVE DATE: The policy explained herein was effective on August 20, 1980, the date the regulation covering the basic policy in the subject area was effective (45 FR 55566).

CROSS-REFERENCES: Program Operations Manual System, Part 4, sections DI 2155-2155.35 and DI 00405.001ff.

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