

Miami, FL, Miami Intl, ILS RWY 9R, Amdt 9
 Miami, FL, Miami Intl, ILS RWY 12, Amdt 4
 Miami, FL, Miami Intl, ILS RWY 27L, Amdt 23
 Miami, FL, Miami Intl, ILS RWY 27R, Amdt 14
 Orlando, FL, Orlando Intl, VOR/DME RNAV RWY 36L, Orig, CANCELLED
 Titusville, FL, Space Coast Regional, GPS RWY 9, Orig-B
 Chicago, IL, Chicago Midway, ILS RWY 13C, Amdt 40
 Winston Salem, NC, Smith Reynolds, VOR/DME RWY 15, Amdt 1B
 Winston Salem, NC, Smith Reynolds, NDB RWY 33, Amdt 25B
 Winston Salem, NC, Smith Reynolds, GPS RWY 15, Orig-B
 Winston Salem, NC, Smith Reynolds, GPS RWY 33, Orig-B
 New Philadelphia, OH, Harry Clever Field, VOR-A, Amdt 1
 New Philadelphia, OH, Harry Clever Field, GPS RWY 14, Amdt 1
 Portland, OR, Portland Intl, NDB OR GPS RWY 28L, Amdt 4
 Portland, OR, Portland Intl, NDB RWY 28R, Amdt 11
 Portland, OR, Portland Intl, ILS RWY 10R, Amdt 31
 Myrtle Beach, SC, Myrtle Beach Intl, ILS RWY 17, Amdt 1
 Myrtle Beach, SC, Myrtle Beach Intl, ILS RWY 35, Amdt 1
 Myrtle Beach, SC, Myrtle Beach Intl, GPS RWY 35, Orig, CANCELLED
 Myrtle Beach, SC, Myrtle Beach Intl, RNAV RWY 35, Orig
 Myrtle Beach, SC, Myrtle Beach Intl, RNAV RWY 17, Orig
 Madison, SD, Madison Muni, GPS RWY 33, Orig-B
 * * * *Effective October 5, 2000*
 Cordova, AK, Merle K. (Mudhole) Smith, GPS RWY 27, Orig-A
 Arcata-Eureka, CA, Arcata, VOR RWY 14, Amdt 7A
 Montrose, CO, Montrose Regional, GPS RWY 13, Orig-B
 Oxford, CT, Waterbury-Oxford, NDB RWY 18, Amdt 5A
 Oxford, CT, Waterbury-Oxford, GPS RWY 18, Orig-A
 Springfield, IL, Capital, NDB OR GPS RWY 4, Amdt 18A
 Springfield, IL, Capital, NDB RWY 22, Orig-A
 Sterling Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, LOC BC RWY 7, Amdt 5A
 Sterling Rockfalls, IL, Whiteside Co Arpt-Jos H Bittorf Fld, NDB OR GPS RWY 7, Amdt 5A
 Grand Rapids, MI, Gerald R. Ford Intl, VOR RWY 17, Orig-C
 Cleveland, OH, Cuyahoga County, LOC BC RWY 5, Amdt 10B
 Cleveland, OH, Cuyahoga County, NDB OR GPS RWY 23, Amdt 8B
 Columbus, OH, Rickenbacker Intl, NDB OR GPS RWY 5R, Orig-A
 Delaware, OH, Delaware Muni, VOR RWY 28, Orig-A
 Delaware, OH, Delaware Muni, GPS RWY 10, Orig-A

Delaware, OH, Delaware Muni, GPS RWY 28, Orig-A
 Mansfield, OH, Mansfield Lahm Muni, VOR OR GPS RWY 32, Amdt 6B
 Wilmington, OH, Airborne Airpark, VOR/DME OR GPS RWY 22R, Amdt 4C
 Pawtucket, RI, North Central State, GPS RWY 23, Orig-A
 Pawtucket, RI, North Central State, LOC RWY 5, Amdt 5A
 Spearfish, SD, Black Hills-Clyde Ice Field, GPS RWY 12, Orig-D

The FAA published an amendment in Docket No. 29995, Amdt. No. 1986 to Part 97 of the Federal Aviation Regulations (65 FR 20896; dated Wednesday, April 19, 2000), under § 97.23 effective June 15, 2000. That amendment, which appeared on page 20898, first column, lines 21 and 22, is corrected to read as follows:

Lancaster, PA, Lancaster, VOR/DME OR GPS RWY 8, Amdt 4

[FR Doc. 00-12559 Filed 5-18-00; 8:45 am]

BILLING CODE 4910-13-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960-AF03

Addition of Medical Criteria for Evaluating Down Syndrome in Adults

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We are adding a new listing to evaluate non-mosaic Down syndrome in adults. Our current regulations only include a listing for evaluating Down syndrome in children; we evaluate claims filed by adults with Down syndrome under other listings. We are establishing a separate adult listing for this disorder to acknowledge its lifelong impact and severity. We expect that these final rules will simplify and expedite our adjudication of claims filed by adults with non-mosaic Down syndrome.

DATES: These rules are effective June 19, 2000.

FOR FURTHER INFORMATION CONTACT: Michelle Hungerman, Social Insurance Specialist, Office of Disability, Social Security Administration, 3-A-9 Operations Building, 6401 Security Boulevard, Baltimore, Maryland, 21235-6401, (410) 965-2289, TTY (410) 966-5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

SUPPLEMENTARY INFORMATION:

Background

We pay disability benefits under title II of the Social Security Act (the Act) to disabled individuals who are insured under the Act. We also pay child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured individuals. In addition, we make Supplemental Security Income (SSI) payments under title XVI of the Act to persons who are disabled and who have limited income and resources. For adults under both the title II and title XVI programs, and for persons claiming child's insurance benefits based on disability under title II, "disability" means that an impairment(s) results in an inability to engage in any substantial gainful activity. Disability must be the result of any medically determinable physical or mental impairment(s) that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months.

Although the listings are contained only in part 404, we incorporate them by reference in the SSI program by § 416.925 of our regulations. The listings are divided into part A and part B. We apply the criteria in part A when we evaluate impairments in adults, that is, persons age 18 or over. The listings in part A describe, for each of several major body systems, impairments that are considered severe enough to prevent a person from doing any gainful activity.

As a result of medical advances in disability evaluation and treatment, and program experience, we are required to periodically review and update the listings. In the Notice of Proposed Rulemaking (NPRM) we published in the **Federal Register** (64 FR 55215) on October 12, 1999, we indicated that we would review these rules on July 2, 2001. However, based on our experience adjudicating claims filed by adults with non-mosaic Down syndrome, we believe that these rules will continue to be valid for our program purposes after that date. Therefore, these rules will be in effect for 8 years after the effective date, unless we extend them, or revise and issue them again.

Explanation of Final Rules

Aside from the change in the date on which these rules will no longer be effective, which we discussed above, we have made no changes from the proposed rules. We are adding a new listing to evaluate claims filed by adults who have non-mosaic Down syndrome. Since 1990, we have evaluated claims filed on behalf of children who have

non-mosaic Down syndrome under listing 110.06, but we have not had a Down syndrome listing for adults. Instead, we evaluate most of these claims under listing 12.05-Mental Retardation—which requires measurement of intellectual functioning. Almost all adults with Down syndrome also have moderate to severe musculoskeletal abnormalities, and many have other impairments, including cardiac, gastrointestinal, oral/facial and skeletal abnormalities. We also evaluate the physical impairments that such individuals may have under the appropriate body system listings.

For children, current listing 110.06 represents what we have known for some time: that when we obtain appropriate evidence, virtually all individuals who have non-mosaic Down syndrome will be found disabled under our rules. Therefore, listing 110.06 is met by showing that the individual has Down syndrome (excluding mosaic Down syndrome) that has been established by clinical findings, including the characteristic physical features, and laboratory evidence, including chromosomal analysis.

When listing 110.06 is met, disability is established from birth. In recognition of the fact that non-mosaic Down syndrome rarely, if ever, improves to the point that an individual would not meet our definition of disability, we are adding a corresponding listing in part A. We expect that this listing will simplify and expedite our adjudication of cases filed by adults with non-mosaic Down syndrome. We also expect that these rules will simplify and expedite the process of performing disability redeterminations at age 18 for individuals who are eligible for SSI as children on the basis of non-mosaic Down syndrome. Although it is the only listing in section 10.00, we are numbering the new listing as listing 10.06, to correspond to listing 110.06 in part B.

As in the childhood listing, final listing 10.06 provides that an individual age 18 or older who has non-mosaic Down syndrome established by clinical and laboratory findings, including chromosomal analysis, is considered disabled from birth. The new sections 10.00A and 10.00B in the preface to the listing provide rules for documenting non-mosaic Down syndrome. These rules are similar to those in the corresponding sections of the part B listing, 110.00A and 110.00B. Final 10.00A includes a provision similar to one in current 110.00A.2, which states that an individual with Down syndrome is considered disabled from birth. We included this provision in the final rules

for adults to establish that the 12-month duration requirement has been met.

As we have done in part B of our listings, we are excluding mosaic Down syndrome from the listing. Mosaic Down syndrome is a rare form of the condition that is manifested in a wide range of impairment severity. The condition can be profound and disabling, but it can also be so slight as to go undetected. Therefore, it would not be appropriate to conclude that mosaic Down syndrome is always disabling. However, we will still find individuals with mosaic Down syndrome disabled if their impairments meet or are medically equivalent in severity to the requirements of other listings. An individual whose mosaic Down syndrome is “severe” but whose impairment(s) do not meet or medically equal the requirements of a listing may also be found disabled at the fifth step of the sequential evaluation process, based on an assessment of his or her residual functional capacity and consideration of his or her age, education, and work experience.

Finally, we are adding a new section 10.00C. This paragraph provides guidance for evaluating other chromosomal abnormalities.

Other Changes

Section 10.00 of part A of the listings was reserved for future use. We are now adding a new preface (10.00A, 10.00B, and 10.00C) and new listing 10.06 in this section. For this reason, and because Down syndrome often has physical as well as mental effects, we are adding the heading “Multiple body systems” for this section. We are also making minor editorial changes to the introductory text and table of contents to part A of appendix 1, to reflect the provisions of the final rules.

Public Comments

In the NPRM, we provided the public with a 60-day comment period. In response to the NPRM, we received comments from 20 commenters. Most of the comments came from individuals, many of whom have family members with Down syndrome. These commenters supported the proposed rules, without any suggested changes. Several comments came from interested organizations, including the National Down Syndrome Congress, the National Down Syndrome Society, the Arc of the United States, and the Joseph P. Kennedy, Jr., Foundation. Other comments came from the State agencies that make disability determinations for us.

All of the commenters supported the addition of an adult listing for

evaluating non-mosaic Down syndrome. The summaries of the significant comments we received and our responses to them follow. We have tried to summarize the commenters' views accurately, and have responded to all of the significant issues raised that are within the scope of the proposed rules.

Comment: Commenters from a State agency that makes disability determinations for us agreed that including a separate listing for evaluating non-mosaic Down syndrome in adults was a good idea that would help simplify the adjudication of these cases. Two commenters from a State agency asked us to consider additional revisions to the listings to include other genetic disorders. One of these commenters specifically suggested we add a listing for evaluating Lowe's syndrome.

Response: We have not adopted the comment. Lowe's syndrome is a genetic disorder that primarily affects the eyes, brain, and kidneys. As with most genetic disorders, the physical stigmas and the degree of mental retardation associated with Lowe's syndrome vary widely. Therefore, we cannot conclude that the impairment is always of listing-level severity. Section 10.00C of these final rules provides that genetic disorders other than non-mosaic Down syndrome should be evaluated under the listings for the affected body system. We believe that this section will allow us to evaluate appropriately the effects of other genetic disorders, including Lowe's syndrome.

Comment: One commenter indicated that laboratory testing for Down syndrome is generally done at birth or soon thereafter. This commenter stated that, since the listing would apply to individuals who are at least 18 years old, the result of any laboratory testing might be difficult to obtain due to the passage of time. The commenter questioned what type of medical evidence could be used to establish the diagnosis under the provisions of section 10.00B of these final rules. The commenter also asked if SSA would pay for chromosomal analysis if needed.

Response: Section 10.00B of the final rules provides that, in lieu of a copy of the actual laboratory report, medical evidence that is persuasive that a positive diagnosis has been confirmed by an appropriate laboratory testing, at some time prior to evaluation, is acceptable documentation of the existence of non-mosaic Down syndrome. Under this provision, the file must contain an acceptable reference to the fact that testing was conducted and the results of that testing. The referenced results must be consistent

with other evidence in file, *e.g.*, the description of the usual abnormal physical findings, the individual's educational history, or the results of psychological testing, if performed. Generally, this information will give us sufficient evidence to establish the diagnosis. However, in the unusual case in which it becomes necessary, SSA can purchase the appropriate blood test.

Comment: Another commenter from a State agency that makes disability determinations for us agreed that this listing will assist in the adjudication of adult cases, age-18 redetermination cases, and continuing disability review (CDR) cases. This commenter asked whether we could revise the listing to indicate that medical improvement is not expected and that the cases adjudicated under listing 10.06 be diaried for 7 years.

Response: After we find that an individual is disabled, we must evaluate his or her continued eligibility for benefits from time to time. SSA issues guidelines on how to schedule these reviews through internal operating instructions in our Program Operations Manual System (POMS). We will consider the guidelines recommended by the commenter when we issue POMS instructions on how to schedule CDR diaries for adults found disabled based on non-mosaic Down syndrome.

Comment: One commenter representing an interested organization expressed support for adding a new listing to provide for the evaluation of Down syndrome for adults. This commenter urged SSA to provide training to all adjudicators when these rules become final.

Response: We agree with the commenter's recommendation. In accordance with our usual practice, we will conduct training for all adjudicators after the final rules are published.

For the reasons given in our responses to the comments on the proposed rules, we have not made further changes to the text of the proposed rules. Other than the one change discussed above, we are publishing the proposed regulations as final regulations.

Regulatory Procedures
Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, the final rules were not subject to OMB review. We have also determined that these final rules meet the plain language requirement of Executive Order 12866 and the

President's memorandum of June 1, 1998 (63 FR 31885).

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they only affect individuals. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules impose no reporting/recordkeeping requirements necessitating clearance by OMB.

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

List of Subjects in 20 CFR Part 404

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

Dated: May 3, 2000.
Kenneth S. Apfel,
Commissioner of Social Security.

For the reasons set out in the preamble, we are amending part 404, subpart P, of chapter III of title 20 of the Code of Federal Regulations to read as follows:

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

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

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

Appendix 1 to Subpart P of Part 404— [Amended]

2. Appendix 1 to subpart P of part 404 is amended as follows:

- a. Item 11 of the introductory text before Part A of appendix 1 is revised.
 - b. The Table of Contents for part A of appendix 1 is amended by adding section 10.00.
 - c. Section 10.00 is added to Part A of appendix 1.
- The added and revised text reads as follows:

Appendix 1 To Subpart P of Part 404— Listing of Impairments

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11. Multiple Body Systems (10.00):
June 19, 2008, and (10.00): July 2, 2001.

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Part A

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10.00 Multiple Body Systems

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10.00 MULTIPLE BODY SYSTEMS

A. Down syndrome (except for mosaic Down syndrome (see 10.00C)) established by clinical findings, including the characteristic physical features, and laboratory evidence is considered to meet the requirement of listing 10.06, commencing at birth.

B. Documentation must include confirmation of a positive diagnosis by a clinical description of the usual abnormal physical findings associated with the condition and definitive laboratory tests, including chromosomal analysis. Medical evidence that is persuasive that a positive diagnosis has been confirmed by appropriate laboratory testing, at some time prior to evaluation, is acceptable in lieu of a copy of the actual laboratory report.

C. Other chromosomal abnormalities, *e.g.*, mosaic Down syndrome, fragile X syndrome, phenylketonuria, and fetal alcohol syndrome, produce a pattern of multiple impairments but manifest in a wide range of impairment severity. Therefore, the effects of these impairments should be evaluated under the affected body system.

10.01 Category of Impairments, Multiple Body Systems

10.06 Down syndrome (excluding mosaic Down syndrome) established by clinical and laboratory findings, as described in 10.00B. Consider the individual disabled from birth.

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