

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 404**

[Docket No. SSA-2010-0021]

RIN 0960-AH20

Extension of Expiration Dates for Several Body System Listings**AGENCY:** Social Security Administration.**ACTION:** Final rule.

SUMMARY: We are extending the expiration dates of the following body systems in the Listing of Impairments (listings) in our regulations: Cardiovascular System, Endocrine System, Growth Impairment, Hematological Disorders, Musculoskeletal System, Mental Disorders, Neurological, and Respiratory System. We are making no other revisions to these body system listings. This extension will ensure that we continue to have in the listings the criteria we need to evaluate impairments in the affected body systems at the appropriate steps of the sequential evaluation processes for initial claims and continuing disability reviews.

DATES: This final rule is effective on June 11, 2010.

FOR FURTHER INFORMATION CONTACT: Cheryl Williams, Director, Office of Medical Listings Improvement, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1020. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213, or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:**Electronic Version**

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

Background

We use the listings in appendix 1 to subpart P of part 404 of 20 CFR at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the title II and title XVI programs.¹ 20 CFR 404.1520(d), 416.920(d). The listings are in two parts. There are listings for adults (part A) and children (part B). If you are age 18 or

over, we apply the listings in part A when we assess your claim. If you are under age 18, we first use the criteria in part B of the listings. If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. 20 CFR 404.1525(b), 416.925(b).

Explanation of Changes

In this final rule, we are extending until July 2, 2012, the date on which the listings for the following body systems will no longer be effective:

- Growth Impairment (100.00);
- Respiratory System (3.00 and 103.00);
- Hematological Disorders (7.00 and 107.00);
- Endocrine System (9.00 and 109.00);
- Neurological (11.00 and 111.00);
- Mental Disorders (12.00 and 112.00).

We are also extending until February 18, 2013, the date on which the listings for the following body systems will no longer be effective:

- Musculoskeletal System (1.00 and 101.00);
- Cardiovascular System (4.00 and 104.00).

We have already begun the process of updating these listings, and we have taken significant steps to revise and update the listings for body systems that are not affected by this final rule. We have published advance notices of proposed rulemaking requesting comments from the public on whether and how we should update and revise the criteria for the growth impairment listings (70 FR 53323 (2005)), the respiratory listings (70 FR 19358 (2005)), the cardiovascular listings (73 FR 20564 (2008)), and the neurological listings (70 FR 19356 (2005)). We also have published notices of proposed rulemaking proposing to revise the mental disorders listings (68 FR 12639 (2003)) and the listings for the endocrine body system (74 FR 66069 (2009)).² We intend to update the listings as quickly as possible, but we may not be able to publish final rules revising these body system listings by the expiration dates we are changing

² In addition, since we last extended the expiration date of some of the listings in May 2008 (73 FR 31025 (2008)), we have published final rules revising the malignant neoplastic diseases body system (74 FR 51229 (2009)); final rules on the hearing loss listings in the special senses and speech body system (75 FR 30693 (2010)) and advance notices of proposed rulemaking for the genitourinary body system, (74 FR 57970 (2009)), multiple body system (59 FR 57971 (2009)), and skin body system (74 FR 57972 (2009)).

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

today. Therefore, we are extending the expiration dates as listed above.

Regulatory Procedures**Justification for Final Rule**

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. The Social Security Act, 702(a)(5); 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to the notice-and-comment requirements when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We have determined that good cause exists for dispensing with the notice and public comment procedures. 5 U.S.C. 553(b)(B). This final rule only extends the date on which several body system listings will no longer be effective. It makes no substantive changes to our rules. Moreover, our current regulations³ provide that we may extend, revise, or promulgate the body system listings again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

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

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the requirements for a significant regulatory action under Executive Order 12866. Thus, OMB did not review it. We have also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule does not have a significant economic impact on a substantial number of small entities because it affects only individuals.

³ See the first sentence of appendix 1 to subpart P of part 404.

Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

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

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

List of Subjects in 20 CFR Part 404

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

Michael J. Astrue,

Commissioner of Social Security.

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

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

Subpart P—[Amended]

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

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) 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; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend appendix 1 to subpart P of part 404 by revising items 1, 2, 4, 5, 8, 10, 12, and 13 of the introductory text before Part A to read as follows:

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

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1. Growth Impairment (100.00): July 2, 2012.

2. Musculoskeletal System (1.00 and 101.00): February 18, 2013.

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4. Respiratory System (3.00 and 103.00): July 2, 2012.

5. Cardiovascular System (4.00 and 104.00): February 18, 2013.

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8. Hematological Disorders (7.00 and 107.00): July 2, 2012.

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10. Endocrine System (9.00 and 109.00): July 2, 2012.

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12. Neurological (11.00 and 111.00): July 2, 2012.

13. Mental Disorders (12.00 and 112.00): July 2, 2012.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405, 408, 416, and 418

[Docket No. SSA–2009–0062]

RIN 0960–AH16

Technical Amendment Language Change From “Wholly” to “Fully”

AGENCY: Social Security Administration.
ACTION: Final rules; technical amendment.

SUMMARY: These final rules amend our regulations to replace the word “wholly” with the word “fully” when we describe the favorable or unfavorable nature of determinations or decisions we make on claims for benefits. This change does not alter the substance of the regulations or have any effect on the rights of claimants or any other parties.

DATES: These final rules are effective June 11, 2010.

FOR FURTHER INFORMATION CONTACT: For information about these final rules, call Brian J. Rudick, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7102. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: We are changing the word “wholly” to “fully” in a number of places in our regulations. We have used the words “wholly” and “fully” interchangeably in our prior regulations when we refer to determinations or decisions that provide a claimant with all of the relief that he or she seeks. For example, in our rules regarding the administrative review process in subpart J of part 404 of our rules, we sometimes used the phrase “wholly favorable” and other times used the phrase “fully favorable” to mean the same thing. We believe that using the phrase “fully favorable” throughout these rules will make our regulations clearer and more consistent. These editorial changes do not alter the

substance of the regulations and will not affect the rights of claimants or any other parties.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). The changes we are making in these rules promote clear and consistent regulations by ensuring that we use only one term rather than two essentially synonymous terms to describe the nature of our determinations and decisions. The changes do not alter the substance of the regulations or have any effect on the rights of claimants or any other parties. We believe the public would not be particularly interested in commenting on these changes. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing these rules as final rules.

In addition, because we are not making any substantive changes to the existing rules, we find there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). Since these changes merely simplify the wording of the regulations, we find that it is unnecessary to delay the effective date of the rules and that it is in the public interest to make these final rules effective on the date of publication.

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 and were not subject to OMB review.

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 States and individuals. Therefore, a regulatory flexibility analysis is not required under