



SOCIAL SECURITY

Office of the Chief Administrative Law Judge

MEMORANDUM

Refer To: 10-1691

Date: September 14, 2010

To: Regional Chief Administrative Law Judges

From: John P. Costello/s/

Acting Associate Chief Administrative Law Judge

Subject: Consideration of Single Decisionmaker (SDM) Residual Functional Capacity Assessments and Other Findings -- **REVISED**

This memorandum revises and replaces all previously issued memoranda addressing the evaluation of SDM residual functional capacity (RFC) assessments.

Under procedures set out in 20 CFR 404.1615 and 416.1015, a team comprised of a State agency disability examiner and a State agency medical consultant (MC) or psychological consultant (PC) ordinarily makes the State agency's disability determination. Both members of the team are responsible for the determination. However, under the test modified to the disability determination process found in 20 CFR 404.906(b)(2) and 416.1406(b)(2), State agency disability examiners designated as SDMs may make disability determinations alone in many cases. In making these determinations, SDMs may consult with State agency MCs or PCs, but they are not required to, and MCs and PCs do not approve these determinations even when SDMs ask for their assistance. Since the SDMs are solely responsible for the determinations, they must make all of the necessary findings of fact, in their own assessments of RFC when necessary.

For this reason, many case files that come from States that use SDMs will include Physical RFC Assessment forms (Form SSA-4734-BK) signed by SDMs, or their electronic equivalents in States that use the Electronic Claims Analysis Tool (eCAT) program. There may also be other forms containing other SDM findings. Agency policy is that findings made by SDMs are not opinion evidence that Administrative Law Judges (ALJs) or Attorney Adjudicators (AAs) should consider and address in their decisions. See, for example, POMS DI 24510.050C, which states that SDM-completed forms are not opinion evidence at the appeal levels. SDM findings are not "medical opinion" evidence since they do not come from medical sources. However, agency policy is that they are also not the opinions of non-medical sources as described in SSR 06-3p.

Therefore, ALJs and AAs must not consider SDM RFC assessment forms and other findings as opinion evidence and must not evaluate them in their decisions. ALJs and, by extension, AAs must continue to consider findings made by State agency MCs and PCs as opinion evidence and weigh that evidence together with the other evidence in the record when they make their decisions. 20 CFR 404.1527(f) and 416.927(f) and Social Security Ruling 96-6p.

The State agency should clearly identify any forms that are signed by SDMs. Nevertheless, the ALJ or AA is ultimately responsible for checking the signature lines of any relevant forms and ensuring that the decision does not erroneously include an evaluation of SDM findings. In addition, since SDMs are permitted to consult with MCs and PCs, some case files will include RFC assessment or other forms that are signed by MCs and PCs in addition to forms signed by SDMs. ALJs and AAs should be aware that the case file may contain some forms that they must evaluate and some forms that they must not, and ensure that they are evaluating only forms that contain opinions from MCs and PCs.

When a case that contains a copy of an SDM's SSA-4734-BK is appealed to the hearing level, the form will be located in the "F" section (Medical Records). At case work, the SDM's form should be moved to the "A" section (Payment Documents/Decisions); any forms signed by MCs or PCs should be left in the "F" section. If the State agency uses eCAT to make the determination, the electronic equivalent of the SDM's physical RFC assessment form will already be in the "A" section.

Please share this information with all hearing office personnel in your region. If you would like to discuss this matter, please let me know. My staff contact is Attorney Advisor Richard Ciaramello, who may be reached at 703-605-7957.

cc: Regional Office Management Teams

RELEASED BY:

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