community ties, age, and combination of factors.

• Criminal History. Priority issues for the 1996–97 amendment cycle include: (1) Re-ordering and streamlining Chapter Four; and (2) revising assignment of criminal history points to better target serious, repeat offenders.

• Sentencing Table. Issues of lower immediate priority for discussion during future amendment cycles include: (1) Options to streamline sentencing table to reduce significantly the number of offense levels; (2) options to revise the current sentencing table's ''zone'' structure; and (3) additional or expanded sentencing options.

• Appellate Litigation and Other Statutory Issues. Priority issues for the 1996–97 amendment cycle include: (1) Consideration of the impact of the recent U.S. Supreme Court decision in *Koon* v. *United States,* supra, on appellate review of guideline sentences and on the need to revise the introduction to the Guidelines Manual and Departure Section (§ 5K2.0) to address the deference appellate courts should afford district courts on guideline determinations; and (2) consideration of widening the bands in monetary and drug tables to decrease litigation.

• Drug Sentencing/Role in the Offense. Priority issues for 1996–97 amendment cycle include: (1) Revising the Role in the Offense guideline to better reflect actual experience, case law development, and to provide sufficient flexibility when sentencing drug offenders.

• Introduction to Guidelines Manual. Priority issues for 1996–97 amendment cycle include: (1) Updating the introduction to reflect the evolution of the guideline sentencing process.

III. Circuit Conflicts, Miscellaneous Amendments

As part of the 1996–97 amendment cycle, the Commission expects to consider and propose for comment amendments that address some of the more important application issues involving conflicting court interpretations of guideline language.

IV. Cocaine Offenses

Under Public Law No. 104–38 (Oct. 30, 1995), the Commission is directed to submit recommendations to Congress regarding changes in the penalty statutes and sentencing guidelines for cocaine offenses (including crack). See 61 FR 80 (January 2, 1996). The Commission has been gathering and analyzing data and other relevant information, including public comment, in preparation for formulating the required recommendations. It expects to continue this process during the coming months and again invites comment regarding implementation of this congressional directive. Comment should focus on (1) the quantity ratio that should be substituted for the current 100-to-1 ratio in the relevant penalty statutes and sentencing guidelines (see USSG § 2D1.1(c)), and (2) appropriate enhancements in § 2D1.1 for violence and other harms associated with crack and powder cocaine.

V. Revisions to Money Laundering Guidelines

As directed by Public Law 104–38, *supra,* the Commission will respond to an expected Department of Justice report on money laundering charging and plea practices and will continue its study of the money laundering guidelines (U.S.S.G. §§ 2S1.1–2S1.2).

VI. Guideline Assessment, Research Initiatives

Under the direction of an outside consultant, Commission staff have initiated a number of research projects designed to assess the success of the guidelines. *See* 60 FR 49316–17 (Sept. 22, 1995). These efforts will continue in the coming year, focusing primarily on the use of an intensive study sample (ISS) of cases to better evaluate operation of the Relevant Conduct and Criminal History guidelines.

V. Administrative Initiatives

As indicated in its 1995 work priorities notice, see 60 FR 49316, 17 (Sept. 22, 1995), the Commission is engaged in an ongoing effort to maximize the efficiency of its limited staff resources. Additionally, the Commission expects to soon publish for comment a set of Rules of Practice and Procedure describing its internal operating practices and the manner in which interested persons can participate in the Commission's work.

[FR Doc. 96–16873 Filed 7–1–96; 8:45 am]
BILLING CODE 2210–40–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling (SSR) 96–6p. Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling SSR 96–6p. This Ruling clarifies Social Security Administration policy regarding the consideration of findings of fact by State agency medical and psychological consultants and other program physicians and psychologists by adjudicators at the administrative law judge and Appeals Council levels. Also, the Ruling restores to the Rulings and clarifies policy interpretations regarding administrative law judge and Appeals Council responsibility for obtaining opinions of physicians or psychologists designated by the Commissioner of Social Security regarding equivalence to listings in the Listing of Impairments (appendix 1, subpart P of 20 CFR part 404) formerly in SSR 83–19, ''Titles II and XVI: Finding Disability on the Basis of Medical Considerations Alone—The Listing of Impairments and Medical Equivalency.'' SSR 83–19 was rescinded without replacement by SSR 91–7c (C.E. 1990–1991, p. 92) as a result of the Supreme Court's decision in *Sullivan* v. *Zebley*, 493 U.S. 521 (1990), which invalidated the use of a medical ''listings only'' approach to evaluating disability claims of individuals under 18 years of age under the supplemental security income program. That decision has no bearing on the aspects of SSR 83–19 that we are restoring in this Ruling.

EFFECTIVE DATE: July 2, 1996.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law

or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the Federal Register to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

Dated: June 7, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling—Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence

Purpose: To clarify Social Security Administration policy regarding the consideration of findings of fact by State agency medical and psychological consultants and other program physicians and psychologists by adjudicators at the administrative law judge and Appeals Council levels. Also, to restore to the Rulings and clarify policy interpretations regarding administrative law judge and Appeals Council responsibility for obtaining opinions of physicians or psychologists designated by the Commissioner regarding equivalence to listings in the Listing of Impairments (appendix 1, subpart P of 20 CFR part 404) formerly in SSR 83–19. In particular, to emphasize the following longstanding policies and policy interpretations:

1. Findings of fact made by State agency medical and psychological consultants and other program physicians and psychologists regarding the nature and severity of an individual's impairment(s) must be treated as expert opinion evidence of nonexamining sources at the administrative law judge and Appeals Council levels of administrative review.

2. Administrative law judges and the Appeals Council may not ignore these opinions and must explain the weight given to these opinions in their decisions.

3. An updated medical expert opinion must be obtained by the administrative law judge or the Appeals Council before a decision of disability based on medical equivalence can be made.

Citations (Authority): Sections 216(i), 223(d) and 1614(a) of the Social Security Act (the Act), as amended; Regulations No. 4, sections 404.1502, 404.1512(b)(6), 404.1526, 404.1527, and 404.1546; and Regulations No. 16, sections 416.902, 416.912(b)(6), 416.926, 416.927, and 416.946.

Introduction: Regulations 20 CFR 404.1527 and 416.927 set forth detailed rules for evaluating medical opinions about an individual's impairment(s) offered by medical sources [1] and the medical opinions of State agency medical and psychological consultants and other nonexamining sources. Paragraph (a) of these regulations provides that ''medical opinions'' are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of an individual's impairment(s), including symptoms, diagnosis and prognosis, what the individual can still do despite his or her impairment(s), and the individual's physical or mental restrictions. Paragraph (b) provides that, in deciding whether an individual is disabled, the adjudicator will always consider the medical opinions in the case record together with the rest of the relevant evidence. Paragraphs (c), (d), and (e) then provide general rules for evaluating the record, with particular attention to medical and other opinions from acceptable medical sources.

Paragraph (f) provides that findings of fact made by State agency medical and psychological consultants and other program physicians and psychologists become opinions at the administrative law judge and Appeals Council levels of administrative review and requires administrative law judges and the Appeals Council to consider and evaluate these opinions when making a decision in a particular case.

State agency medical and psychological consultants are highly qualified physicians and psychologists who are experts in the evaluation of the medical issues in disability claims under the Act. As members of the teams that make determinations of disability at the initial and reconsideration levels of the administrative review process (except in disability hearings), they consider the medical evidence in disability cases and make findings of fact on the medical issues, including, but not limited to, the existence and severity of an individual's impairment(s), the existence and severity of an individual's symptoms, whether the individual's impairment(s) meets or is equivalent in severity to the requirements for any impairment listed in 20 CFR part 404, subpart P, appendix 1 (the Listing of Impairments), and the individual's residual functional capacity (RFC).

Policy Interpretation: Because State agency medical and psychological consultants and other program physicians and psychologists are experts in the Social Security disability programs, the rules in 20 CFR 404.1527(f) and 416.927(f) require administrative law judges and the Appeals Council to consider their findings of fact about the nature and severity of an individual's impairment(s) as opinions of nonexamining physicians and psychologists. Administrative law judges and the Appeals Council are not bound by findings made by State agency or other program physicians and psychologists, but they may not ignore these opinions and must explain the weight given to the opinions in their decisions.

Paragraphs 404.1527(f) and 416.927(f) provide that the rules for considering medical and other opinions of treating sources and other sources in paragraphs (a) through (e) also apply when we consider the medical opinions of nonexamining sources, including State agency medical and psychological consultants and other program physicians and psychologists. The regulations provide progressively more rigorous tests for weighing opinions as the ties between the source of the opinion and the individual become weaker. For example, the opinions of physicians or psychologists who do not have a treatment relationship with the individual are weighed by stricter standards, based to a greater degree on medical evidence, qualifications, and explanations for the opinions, than are required of treating sources.

For this reason, the opinions of State agency medical and psychological consultants and other program physicians and psychologists can be given weight only insofar as they are supported by evidence in the case record, considering such factors as the supportability of the opinion in the evidence including any evidence received at the administrative law judge and Appeals Council levels that was not before the State agency, the consistency of the opinion with the record as a

[1] ''Medical sources'' are defined in 20 CFR 404.1502 and 416.902 as ''treating sources,'' ''sources of record'' (i.e., medical sources that have provided an individual with medical treatment or evaluation, but do not have or did not have an ongoing treatment relationship with the individual), and ''consultative examiners'' for the Social Security Administration.

whole, including other medical opinions, and any explanation for the opinion provided by the State agency medical or psychological consultant or other program physician or psychologist. The adjudicator must also consider all other factors that could have a bearing on the weight to which an opinion is entitled, including any specialization of the State agency medical or psychological consultant.

In appropriate circumstances, opinions from State agency medical and psychological consultants and other program physicians and psychologists may be entitled to greater weight than the opinions of treating or examining sources. For example, the opinion of a State agency medical or psychological consultant or other program physician or psychologist may be entitled to greater weight than a treating source's medical opinion if the State agency medical or phychological consultant's opinion is based on a review of a complete case record that includes a medical report from a specialist in the individual's particular impairment which provides more detailed and comprehensive information than what was available to the individual's treating source.

The following additional guidelines apply at the administrative law judge and Appeals Council levels to opinions about equivalence to a listing in the Listing of Impairments and RFC assessments, issues that are reserved to the Commissioner in 20 CFR 404.1527(e) and 416.927(e). (See also SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner.'')

Medical Equivalence to an Impairment in the Listing of Impairments.

The administrative law judge or Appeals Council is responsible for deciding the ultimate legal question whether a listing is met or equaled. As trier of the facts, an administrative law judge or the Appeals Council is not bound by a finding by a State agency medical or psychological consultant or other program physician or psychologist as to whether an individual's impairment(s) is equivalent in severity to any impairment in the Listing of Impairments. However, longstanding policy requires that the judgment of a physician (or psychologist) designated by the Commissioner on the issue of equivalence on the evidence before the administrative law judge or the Appeals Council must be received into the record as expert opinion evidence and given appropriate weight.

The signature of a State agency medical or psychological consultant on an SSA–831–U5 (Disability Determination and Transmittal Form) or SSA–832–U5 or SSA–833–U5 (Cessation or Continuance of Disability or Blindness) ensures that consideration by a physician (or psychologist) designated by the Commissioner has been given to the question of medical equivalence at the initial and reconsideration levels of administrative review. Other documents, including the Psychiatric Review Technique Form and various other documents on which medical and psychological consultants may record their findings, may also ensure that this opinion has been obtained at the first two levels of administrative review.

When an administrative law judge or the Appeals Council finds that an individual's impairment(s) is not equivalent in severity to any listing, the requirement to receive expert opinion evidence into the record may be satisfied by any of the foregoing documents signed by a State agency medical or psychological consultant. However, an administrative law judge and the Appeals Council must obtain an updated medical opinion from a medical expert [2] in the following circumstances:

- When no additional medical evidence is received, but in the opinion of the administrative law judge or the Appeals Council the symptoms, signs, and laboratory findings reported in the case record suggest that a judgment of equivalence may be reasonable; or When additional medical evidence is received that in the opinion of the administrative law judge or the Appeals Council may change the State agency medical or psychological consultant's finding that the impairment(s) is not equivalent in severity to any impairment in the Listing of Impairments.

When an updated medical judgment as to medical equivalence is required at the administrative law judge level in either of the circumstances above, the administrative law judge must call on a medical expert. When an updated medical judgment as to medical equivalence is required at the Appeals Council level in either of the circumstances above, the Appeals Council must call on the services of its medical support staff.

[2] The term ''medical expert'' is being used to refer to the source of expert medical opinion designated as a ''medical advisor'' in 20 CFR 404.1512(b)(6), 404.1527(f), 416.912(b)(6), and 416.927(f). This term is being used because it describes the role of the ''medical expert'' as an expert witness rather than an advisor in the course of an administrative law judge hearing.

Assessment of RFC

Although the administrative law judge and the Appeals Council are responsible for assessing an individual's RFC at their respective levels of administrative review, the administrative law judge or Appeals Council must consider and evaluate any assessment of the individual's RFC by a State agency medical or psychological consultant and by other program physicians or psychologists. At the administrative law judge and Appeals Council levels, RFC assessments by State agency medical or psychological consultants or other program physicians or psychologists are to be considered and addressed in the decision as medical opinions from nonexamining sources about what the individual can still do despite his or her impairment(s). Again, they are to be evaluated considering all of the factors set out in the regulations for considering opinion evidence.

Effective Date: This Ruling is effective on the date of its publication in the Federal Register.

Cross-References: SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner;'' Program Operations Manual System, section DI 24515.007; and Hearings, Appeals, and Litigation Law Manual, section I–5–310.

[FR Doc. 96–16689 Filed 7–1–96; 8:45 am]
BILLING CODE 4190–29–P

Social Security Ruling (SSR) 96–3p. Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment Is Severe

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 96–3p. This Ruling restates and clarifies the longstanding policies of the Social Security Administration for considering allegations of pain or other symptoms in determining whether individuals claiming disability benefits under Title II, Federal Old-Age, Survivors, and Disability Insurance Benefits, and Title XVI, Supplemental Security Income for the Aged, Blind, and Disabled, of the Social Security Act have a ''severe'' medically determinable physical or mental impairment(s).

EFFECTIVE DATE: July 2, 1996.