explains how SSA will apply the court holding, instead of its nationwide policy, when deciding claims within the applicable circuit. ARs apply at all steps in the administrative process within the applicable circuit unless the court decision, by its nature, applies only at certain steps in this process. In the latter case, the AR may be so limited.

As of the effective date of this Ruling, SSA had issued a total of 62 ARs, averaging about 3–4 ARs per year in recent years; 42 of those ARs are still in effect. The majority of the ARs issued by SSA to date have dealt with nondisability issues, although a significant portion have dealt directly with the disability determination process. Decisions for which ARs are issued often involve complex and difficult issues. The court's holding may be unclear in its scope and susceptible to differing interpretations. Despite these difficulties, no AR has been found to be inadequate by the circuit court which issued the underlying decision.

Policy Interpretation: Unless and until an AR for a circuit court holding has been issued, SSA adjudicates other claims within that circuit by applying its nationwide policy. The preamble to the final acquiescence regulations published on January 11, 1990, explained the basis for this approach in responding to a public comment suggesting that administrative law judges (ALJs) and the Appeals Council should be allowed to apply circuit court holdings without the benefit of an Acquiescence Ruling:

> [W]e have not adopted this comment. First, under this final acquiescence policy, Acquiescence Rulings apply to all levels of adjudication, not only to the ALJ and Appeals Council levels, unless a holding by its nature applies only to certain levels of adjudication. Thus, the approach suggested in this comment would create different standards of adjudication at the different levels of administrative review. Second, interpreting and applying a circuit court holding is not always a simple matter, as we noted previously.[1] Finally, by statute, establishing policy is the Secretary's[2] responsibility; adjudicators are responsible for applying that policy to the facts in any given case. Therefore, we believe that to ensure the uniform and consistent adjudication necessary in the administration of a national program, the agency must analyze court decisions and provide adjudicators as specific a statement as possible explaining the agency's interpretation of a court of appeals holding, as well as providing direction on how to apply the holding in the course of adjudication.

55 FR 1013 (1990).

As explained in SSA's regulations at 20 CFR 404.985(b), 410.670c(b), and 416.1485(b), if SSA makes an administrative determination or decision on a claim between the date of a circuit court decision and the date of issuance of an AR for that decision, the claimant, upon request, is permitted to have the claim readjudicated by demonstrating that application of the AR could change the result. Thus, as explained in the preamble to the acquiescence regulations, a readjudication procedure is provided which allows a claimant, whose application was adjudicated during the interim period between a circuit court decision and the issuance of an AR for that decision, to seek immediate application of the AR once it is issued, without the necessity of appeal. 55 FR 1013 (1990).

Finally, in accordance with its regulations, SSA acquiesces only in decisions of the Federal circuit courts, and not in decisions of Federal district courts within a circuit. Thus, despite a district court decision which may conflict with SSA's interpretation of the Social Security Act or regulations, SSA adjudicators will continue to apply SSA's nationwide policy when adjudicating other claims within that district court's jurisdiction unless the court directs otherwise such as may occur in a class action.

Effective Date: This Ruling, which reflects longstanding procedures which SSA continues to believe represent the most effective and fair way to implement its acquiescence policy, is effective on July 2, 1996. This Ruling does not apply to the claims of New York disability claimants who are covered by the court-approved settlement in *Stieberger* v. *Sullivan*.

[FR Doc. 96–16684 Filed 7–1–96; 8:45 am]
BILLING CODE 4190–29–P

[1] The preamble previously noted that, ''Whether or not the holding of a particular circuit court decision 'conflicts' with our policy is not always clear . . .'' 55 FR 1012 (1990).

[2] As a result of Pub. L. 103–296, the Social Security Independence and Program Improvements Act of 1994, which made SSA an independent agency separate from the Department of Health and Human Services effective March 31, 1995, the responsibility for establishing policy now resides with the Commissioner of Social Security, rather than the Secretary of Health and Human Services.

Social Security Ruling (SSR) 96–5p. Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner

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 96–5p. This Ruling clarifies Social Security Administration policy on how we consider medical source opinions on issues reserved to the Commissioner of Social Security, including whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the Listing of Impairments in appendix l, subpart P of 20 CFR part 404 of the Social Security Administration regulations; what an individual's residual functional capacity is; whether an individual's residual functional capacity prevents him or her from performing past relevant work; how the vocational factors of age, education, and work experience apply; and whether an individual is ''disabled'' under the Social Security Act.

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: Medical Source Opinions on Issues Reserved to the Commissioner

Purpose: To clarify Social Security Administration (SSA) policy on how we consider medical source opinions on issues reserved to the Commissioner, including whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the Listing of Impairments in appendix 1, subpart P of 20 CFR part 404 (the listings); what an individual's residual functional capacity (RFC) is; whether an individual's RFC prevents him or her from doing past relevant work; how the vocational factors of age, education, and work experience apply; and whether an individual is ''disabled'' under the Social Security Act (the Act). In particular, to emphasize:

1. The difference between issues reserved to the Commissioner and medical opinions.

2. That treating source opinions on issues reserved to the Commissioner are never entitled to controlling weight or special significance.

3. That opinions from any medical source about issues reserved to the Commissioner must never be ignored, and that the notice of the determination or decision must explain the consideration given to the treating source's opinion(s).

4. The difference between the opinion called a ''medical source statement'' and the administrative finding called a ''residual functional capacity assessment.''

Citations (Authority): Sections 205(a) and (b)(1), 216(i), 221(a)(1) and (g), 223(d), 1614(a), 1631(c)(1) and (d)(1), and 1633 of the Social Security Act, as amended; Regulations No. 4, sections 404.1503, 404.1504, 404.1512, 404.1513, 404.1520, 404.1526, 404.1527, and 404.1546; Regulations No. 16, sections 416.903, 416.904, 416.912, 416.913, 416.920, 416.924, 416.924d, 416.926, 416.926a, 416.927, and 416.946.

Introduction:[1] On August 1, 1991, SSA published regulations at 20 CFR 404.1527 and 416.927 that set out rules for evaluating medical opinions. The regulations provide general guidance for evaluating all evidence in a case record and provide detailed rules for evaluating medical opinion evidence. They explain the significance given to medical opinions from treating sources on the nature and severity of an individual's impairment(s). They also set out factors used to weigh opinions from all types of medical sources, including treating sources, other examining sources, and nonexamining physicians, psychologists, and other medical sources. In addition, the regulations provide that the final responsibility for deciding certain issues, such as whether an individual is disabled under the Act, is reserved to the Secretary of Health and Human Services (the Secretary).

On March 31, 1995, SSA became an independent agency under Public Law 103–296. As a result of this legislative change, the Commissioner of Social Security (the Commissioner) replaced the Secretary as the official responsible for making determinations of disability under titles II and XVI of the Act.

Policy Interpretation: The regulations at 20 CFR 404.1527(a) and 416.927(a) define medical opinions as ''statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions.'' The regulations recognize that treating sources are important sources of medical evidence and expert testimony, and that their opinions about the nature and severity of an individual's impairment(s) are entitled to special significance; sometimes the medical opinions of treating sources are entitled to controlling weight. Paragraphs (b), (c), (d), and (f) of 20 CFR 404,1527 and 416.927 explain how we weigh treating source and other medical source opinions. (See, also, SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions,'' and 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.'')

Under 20 CFR 404.1527(e) and 416.927(e), some issues are not medical issues regarding the nature and severity of an individual's impairment(s) but are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability. The following are examples of such issues:

1. Whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the listings;

2. What an individual's RFC is;

3. Whether an individual's RFC prevents him or her from doing past relevant work;

4. How the vocational factors of age, education, and work experience apply; and

5. Whether an individual is ''disabled'' under the Act.

The regulations provide that the final responsibility for deciding issues such as these is reserved to the Commissioner.

Nevertheless, our rules provide that adjudicators must always carefully consider medical source opinions about any issue, including opinions about issues that are reserved to the Commissioner. For treating sources, the rules also require that we make every reasonable effort to recontact such sources for clarification when they provide opinions on issues reserved to the Commissioner and the bases for such opinions are not clear to us.

However, treating source opinions on issues that are reserved to the Commissioner are never entitled to controlling weight or special significance. Giving controlling weight to such opinions would, in effect, confer upon the treating source the authority to make the determination or decision about whether an individual is under a disability, and thus would be an abdication of the Commissioner's statutory responsibility to determine whether an individual is disabled.

However, opinions from any medical source on issues reserved to the Commissioner must never be ignored. The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner. If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

[1] Note: For clarity, the following discussions refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI. However, the same principles regarding medical source opinions apply in determining disability for individuals under age 18 claiming disability benefits under title XVI. Therefore, it should be understood that references in this Ruling to the ability to do gainful activity, RFC, and other terms and rules that are applicable only to title II disability claims and title XVI disability claims of individuals age 18 or older, are also intended to refer to appropriate terms and rules applicable in determining disability for individuals under age 18 under title XVI.

In evaluating the opinions of medical sources on issues reserved to the Commissioner, the adjudicator must apply the applicable factors in 20 CFR 404.1527(d) and 416.927(d). For example, it would be appropriate to consider the supportability of the opinion and its consistency with the record as a whole at the administrative law judge and Appeals Council levels in evaluating an opinion about the claimant's ability to function which is from a State agency medical or psychological consultant who has based the opinion on the entire record (see *Findings of State Agency Medical and Psychological Consultants*, below). However, pursuant to paragraph (e)(2) of 20 CFR 404.1527 and 416.927, the adjudicator is precluded from giving any special significance to the source; e.g., giving a treating source's opinion controlling weight, when weighing these opinions on issues reserved to the Commissioner.

The following discussions provide additional policy interpretations and procedures for evaluating opinions on issues reserved to the Commissioner.

Opinions About Whether an Individual's Impairment Meets the Requirements of a Listed Impairment

Whether the findings for an individual's impairment meet the requirements of an impairment in the listings is usually more a question of medical fact than a question of medical opinion. Many of the criteria in the listings relate to the nature and severity of impairments; e.g., diagnosis, prognosis and, for those listings that include such criteria, symptoms and functional limitations. In most instances, the requirements of listed impairments are objective, and whether an individual's impairment manifests these requirements is simply a matter of documentation. To the extent that a treating source is usually the best source of this documentation, the adjudicator looks to the treating source for medical evidence with which he or she can determine whether an individual's impairment meets a listing. When a treating source provides medical evidence that demonstrates that an individual has an impairment that meets a listing, and the treating source offers an opinion that is consistent with this evidence, the adjudicator's administrative finding about whether the individual's impairment(s) meets the requirements of a listing will generally agree with the treating source's opinion. Nevertheless, the issue of meeting the requirements of a listing is still an issue ultimately reserved to the Commissioner.

Opinions on Whether an Individual's Impairment(s) Is Equivalent in Severity to the Requirements of a Listed Impairment

In 20 CFR 404.1526 and 416.926, equivalence is addressed as a ''decision * * * on medical evidence only'' because this finding does not consider the *vocational* factors of age, education, and work experience. A finding of equivalence involves more than findings about the nature and severity of medical impairments. It also requires a judgment that the medical findings equal a level of severity set forth in 20 CFR 404.1525(a) and 416.925(a); i.e., that the impairment(s) is ''* * * severe enough to prevent a person from doing any gainful activity.'' This finding requires familiarity with the regulations and the legal standard of severity set forth in 20 CFR 404.1525(a), 404.1526, 416.925(a), and 416.926. Therefore, it is an issue reserved to the Commissioner.[2]

Residual Functional Capacity Assessments and Medical Source Statements

The regulations describe two distinct kinds of assessments of what an individual can do despite the presence of a severe impairment(s). The first is described in 20 CFR 404.1513(b) and (c) and 416.913(b) and (c) as a ''statement about what you can still do despite your impairment(s)'' made by an individual's medical source and based on that source's own medical findings. This ''medical source statement'' is an opinion submitted by a medical source as part of a medical report. The second category of assessments is the RFC assessment described in 20 CFR 404.1545, 404.1546, 416.945, and 416.946 which is the adjudicator's ultimate finding of ''what you can still do despite your limitations.'' Even though the adjudicator's RFC assessment may adopt the opinions in a medical source statement, they are not the same thing: A medical source statement is evidence that is submitted to SSA by an individual's medical source reflecting the source's opinion based on his or her own knowledge, while an RFC assessment is the adjudicator's ultimate finding based on a consideration of this opinion and all the other evidence in the case record about what an individual can do despite his or her impairment(s).

Medical Source Statement

Medical source statements are medical opinions submitted by acceptable medical sources[3], including treating sources and consultative examiners, about what an individual can still do despite a severe impairment(s), in particular about an individual's physical or mental abilities to perform work-related activities on a sustained basis. Adjudicators are generally required to request that acceptable medical sources provide these statements with their medical reports. Medical source statements are to be based on the medical sources' records and examination of the individual; i.e., their personal knowledge of the individual. Therefore, because there will frequently be medical and other evidence in the case record that will not be known to a particular medical source, a medical source statement may provide an incomplete picture of the individual's abilities.

Medical source statements submitted by treating sources provide medical opinions which are entitled to special significance and may be entitled to controlling weight on issues concerning the nature and severity of an individual's impairment(s). Adjudicators must remember, however, that medical source statements may actually comprise separate medical opinions regarding diverse physical and mental functions, such as walking, lifting, seeing, and remembering instructions, and that it may be necessary to decide whether to adopt or not adopt each one.

RFC Assessment

The term ''residual functional capacity assessment'' describes an adjudicator's finding about the ability of an individual to perform work-related activities. The assessment is based upon consideration of all relevant evidence in the case record, including medical evidence and relevant nonmedical evidence, such as observations of lay witnesses of an individual's apparent symptomatology, an individual's own statement of what he or she is able or unable to do, and many other factors that could help the adjudicator determine the most reasonable findings in light of all the evidence.

[2] See the section below entitled ''Findings of State Agency Medical and Psychological Consultants'' for an explanation of how administrative law judges and the Appeals Council must evaluate State agency medical and psychological consultant findings about equivalence. See also 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.''

[3] The term ''acceptable medical sources'' is defined in 20 CFR 404.1513(a) and 416.913(a).

Medical Source Statement vs. RFC Assessment

A medical source's statement about what an individual can still do is medical opinion evidence that an adjudicator must consider together with all of the other relevant evidence (including other medical source statements that may be in the case record) when assessing an individual's RFC. Although an adjudicator may decide to adopt all of the opinions expressed in a medical source statement, a medical source statement must not be equated with the administrative finding known as the RFC assessment. Adjudicators must weigh medical source statements under the rules set out in 20 CFR 404.1527 and 416.927, providing appropriate explanations for accepting or rejecting such opinions.

From time-to-time, medical sources may provide opinions that an individual is limited to ''sedentary work,'' ''sedentary activity,'' ''light work,'' or similar statements that appear to use the terms set out in our regulations and Rulings to describe exertional levels of maximum sustained work capability. Adjudicators must not assume that a medical source using terms such as ''sedentary'' and ''light'' is aware of our definitions of these terms. The judgment regarding the extent to which an individual is able to perform exertional ranges of work goes beyond medical judgment regarding what an individual can still do and is a finding that may be dispositive of the issue of disability.

At steps 4 and 5 of the sequential evaluation process in 20 CFR 404.1520 and 416.920, the adjudicator's assessment of an individual's RFC may be the most critical finding contributing to the final determination or decision about disability. Although the overall RFC assessment is an administrative finding on an issue reserved to the Commissioner, the adjudicator must nevertheless adopt in that assessment any treating source medical opinion (i.e., opinion on the nature and severity of the individual's impairment(s)) to which the adjudicator has given controlling weight under the rules in 20 CFR 404.1527(d)(2) and 416.927(d)(2).

Opinions on Whether an Individual Is Disabled

Medical sources often offer opinions about whether an individual who has applied for title II or title XVI disability benefits is ''disabled'' or ''unable to work,'' or make similar statements of opinions. In addition, they sometimes offer opinions in other work-related terms; for example, about an individual's ability to do past relevant work or any other type of work. Because these are administrative findings that may determine whether an individual is disabled, they are reserved to the Commissioner. Such opinions on these issues must not be disregarded. However, even when offered by a treating source, they can never be entitled to controlling weight or given special significance.

Findings of State Agency Medical and Psychological Consultants

Medical and psychological consultants in the State agencies are adjudicators at the initial and reconsideration determination levels (except in disability hearings—see 20 CFR 404.914 ff. and 416.1414 ff.). As such, they do not express opinions; they make findings of fact that become part of the determination. However, 20 CFR 404.1527(f) and 416.927(f) provide that, at the administrative law judge and Appeals Council levels of the administrative review process, medical and psychological consultant findings about the nature and severity of an individual's impairment(s), including any RFC assessments, become opinion evidence. Adjudicators at these levels, including administrative law judges and the Appeals Council, must consider these opinions as expert opinion evidence of nonexamining physicians and psychologists and must address the opinions in their decisions. In addition, under 20 CFR 404.1526 and 416.926, adjudicators at the administrative law judge and Appeals Council levels must consider and address State agency medical or psychological consultant findings regarding equivalence to a listed impairment.

At the administrative law judge and Appeals Council levels, adjudicators must evaluate opinion evidence from medical or psychological consultants using all of the applicable rules in 20 CFR 404.1527 and 416.927 to determine the weight to be given to the opinion. For additional detail regarding these policies and policy interpretations, see 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.''

Requirements for Recontacting Treating Sources

Because treating source evidence (including opinion evidence) is important, if the evidence does not support a treating source's opinion on any issue reserved to the Commissioner and the adjudicator cannot ascertain the basis of the opinion from the case record, the adjudicator must make ''every reasonable effort'' to recontact the source for clarification of the reasons for the opinion.

Explanation of the Consideration Given to a Treating Source's Opinion

Treating source opinions on issues reserved to the Commissioner will never be given controlling weight. However, the notice of the determination or decision must explain the consideration given to the treating source's opinion(s).

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

Cross-References: 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,'' SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions;'' and Program Operations Manual System, section DI 24515.010.

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Social Security Ruling (SSR) 96–8p. Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims

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 96–8p. This Ruling states the Social Security Administration's policies and policy interpretations regarding the assessment of residual functional capacity (an individual's ability to perform sustained work activities in an ordinary work setting on a regular and continuing basis) in initial claims for disability benefits under title II of the Social Security Act (the Act) and supplemental security income payments based on disability under title XVI of the Act.

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.