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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

RIN 0960-AG39

#### Extension of the Expiration Date for the Digestive Listings

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Final rule.

**SUMMARY:** We use the Listing of Impairments (the listings) in appendix 1 to subpart P of this part, at the third step of the sequential evaluation process when we evaluate your claim for benefits based on disability under title II and title XVI of the Social Security Act (the Act). This final rule extends until July 2, 2007, the date on which the listings for the digestive system will no longer be effective.

Other than extending the date during which the digestive listings will be effective, we have made no revisions to the listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate disability claims in this body system at the third step of the sequential evaluation process.

**DATES:** This final rule is effective on May 5, 2006.

#### 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>.

#### FOR FURTHER INFORMATION CONTACT:

Cathy Lively, Team Leader, Social Insurance Specialist, Office of Disability Programs, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-1180 or TTY (410) 966-5609. 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 Web site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** We use the listings 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. The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are an individual age 18 or over, we apply the listings in part A when we assess your claim, and we never use the listings in part B. If you are an individual under age 18, we first use the criteria in part B of the listings. If the listings in part B do not apply and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A (see 20 CFR 404.1525 and 416.925).

As a result of medical advances in disability evaluation and treatment, as well as our program experience, we periodically review and update the listings. On November 14, 2001, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (66 FR 57009) that proposed revisions to the digestive system listings. On April 24, 2002, we published final rules, entitled "Technical Revisions to Medical Criteria for Determinations of Disability" (67 FR 20018), which incorporated minor technical changes to the digestive listings to include references to modern imaging techniques and added listings 5.09 and 105.09 for liver transplantation. On November 8, 2004, we published a notice providing a 60-day extension of the comment period on the NPRM for the limited purpose of accepting comments regarding chronic liver disease (69 FR 64702). We then held an outreach meeting in Cambridge, Massachusetts on November 14, 2004, regarding our listings for chronic liver disease. Finally, in final rules published on June 16, 2005 (68 FR 36911), we extended the expiration date for the digestive system listings until July 3, 2006.

We intend to publish final rules to update the digestive listings as expeditiously as possible; however, we will not be able to publish revised listings for the digestive body systems

by July 3, 2006, the current expiration date. Therefore, in this final rule, we are extending the current expiration date for the digestive listings until July 2, 2007.

#### Regulatory Procedures

##### Justification for Final Rule

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures for this rule, because this final rule only extends the date on which the digestive listings will no longer be effective. It makes no substantive changes to those listings. The current regulations expressly provide that listings may be extended, as well as revised and promulgated again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, as provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the digestive body system listings. However, without an extension of the expiration dates for these listings, we will lack regulatory criteria for assessing impairments of the digestive system at the third step of the sequential evaluation process. In order to ensure that we continue to have regulatory criteria for assessing impairments under these listings, we find that it is in the public's interest to make this final rule effective on the date of publication.

#### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. We have also determined that this final rule meets the plain language

requirement of Executive Order 12866, as amended by Executive Order 13258.

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act*

This final rule imposes 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 1, 2006.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

■ For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended 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.

■ 2. Appendix 1 to subpart P of part 404 is amended by revising item 6 of the introductory text before part A to read as follows:

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

\* \* \* \* \*

6. Digestive System (5.00 and 105.00): July 2, 2007.

\* \* \* \* \*

[FR Doc. 06–4242 Filed 5–4–06; 8:45 am]

**BILLING CODE 4191–02–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **23 CFR Part 625**

[FHWA Docket No. FHWA–2005–22476]

RIN 2125–AF06

#### **Design Standards for Highways; Interstate System**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** Through this final rule the FHWA is adopting the revised design standards that apply to highway construction and reconstruction projects on the Interstate System. The FHWA is adopting as its design standards the current version of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Design Standards Interstate System, January 2005*. This publication has replaced the previous version of this policy published in 1991.

**DATES:** This final rule is effective June 5, 2006. The incorporation by reference of the publication listed in this regulation is approved by the Director of the Office of the Federal Register as of June 5, 2006.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. Jon Obenberger, Office of Program Administration (HIPA–20), (202) 366–2221. For legal information: Mr. Robert Black, Office of the Chief Counsel (HCC–32), (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access and Filing**

This document, the NPRM, and all comments received may be viewed online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

The current design standards are on file at the Office of the Federal Register

in Washington, DC, and are available for inspection and copying at the FHWA Washington, DC, Headquarters and field offices as prescribed in 49 CFR part 7. Copies of the current AASHTO publications are also available for purchase by ordering from their Web site at <http://www.aashto.org>.

#### **Background**

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625 (Design Standards for Highways). For the Interstate System, the current document specified in § 625.4(a)(2) is the 1991 edition of *A Policy on Design Standards—Interstate System*<sup>1</sup> (Interstate Standards). The Interstate Standards were revised in January 2005<sup>2</sup> and the FHWA is adopting this latest edition as its geometric design standards for all construction and reconstruction projects on the Interstate System.

The Interstate Standards, being only 6 pages, are not intended to be a “stand alone” document for all of the geometric design standards that are used in the development of projects on the Interstate System. Other publications, such as *A Policy on Geometric Design of Highways and Streets and the Standard Specifications for Highway Bridges*<sup>3</sup> are referenced in the Interstate Standards and used for all geometric design issues not specifically addressed in the Interstate Standards.

#### **Notice of Proposed Rulemaking**

The FHWA published a notice of proposed rulemaking (NPRM) on November 30, 2005 (70 FR 71792). In the NPRM, the FHWA proposed to adopt AASHTO's publication entitled *A Policy on Design Standards Interstate System, January 2005*, as the FHWA's policy on geometric design standards for all construction and reconstruction projects on the Interstate System.

#### **Discussion of Comments**

The FHWA received one submittal with eight comments from a State Department of Transportation (DOT).

<sup>1</sup> A Policy on Design Standards Interstate System, 1991, is available by ordering from AASHTO at their Web site at <http://www.aashto.org>.

<sup>2</sup> A Policy on Design Standards Interstate System, January 2005, is available by ordering from AASHTO at their Web site at <http://www.aashto.org>.

<sup>3</sup> A Policy on Geometric Design of Highways and Streets and Standard Specifications for Highway Bridges are available by ordering from AASHTO at their Web site at <http://www.aashto.org>.