''A United States person may comply or agree to comply in the normal course of business with the unilateral and specific selection by a boycotting country * * * of * * * specific goods, * * * provided that * * * with respect to goods, the items, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country by (a) uniqueness of design or appearance or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging.''

* * * * *

13. Supplement No. 8 to part 760 is amended by revising the phrase ''§ 760.1(d)(13) of this part'' to read ''§ 760.1(d)(3)'' in the third undesignated paragraph.

14. Supplement No. 9 to part 760 is amended by revising the phrase ''§ 760.3(f) of this part'' to read ''§ 760.3(g)'' the first undesignated paragraph.

15. Supplement No. 10 to part 760 is amended by revising the phrase ''non exclusionary, non blacklisting statement'' to read ''non-exclusionary, non-blacklisting statement'' in the undesignated paragraph that follows paragraph heading (b).

16. Supplement No. 11 to part 760 is amended:

a. By placing quotation marks around the undesignated paragraph that follows the phrase ''§ 760.5(a)(4) of this part status in part''; and

b. By revising the parenthetical phrase ''(§ 760.5(a)(6) of this part)'' to read ''(§ 760.5(b)(6)'' in the last undesignated paragraph.

17. Supplement No. 12 to part 760 is amended:

a. By placing beginning and ending quotation marks around the first and second undesignated paragraphs, respectively, that follow the phrase ''Example (v) under § 760.4 of this part (Evasion) provides:''

b. By revising the phrase ''recently imposed by the government'' to read ''imposed by the government'' in the undesignated paragraph that begins with the phrase ''This interpretation deals with''; and

c. By placing quotation marks around the undesignated paragraph that begins with the phrase ''Declaration: I, the undersigned''.

18. Supplement No. 13 to part 760 is amended:

a. By revising the phrase ''§ 760.3(c) of this part'' to read ''§ 760.3(d)'' in the undesignated paragraph following the heading ''Summary'';

b. By placing quotation marks around the third undesignated paragraph following the heading ''Regulatory Background'';

c. By revising the phrase ''§ 760.3(c)'' part'' to read ''§ 760.3(d)'' in the fourth undesignated paragraph following the heading ''Regulatory Background'';

d. By revising the heading ''Analysis of the New Contractual Language'' to read ''Analysis of Additional Contractual Language'';

e. By revising the phrase ''of a new contractual clause'' to read ''of a contractual clause'' in the undesignated paragraph following the newly revised heading ''Analysis of the New Contractual Language'';

f. By revising the heading ''Boycott of Boycotted Country'' to read ''Boycott of [Name of Boycotted Country]'';

g. By revising the phrase ''§ 760.3(c) of this part'' to read ''§ 760.3(d)'' in the last undesignated paragraph of this supplement.

19. Supplement No. 14 to part 760 is amended:

a. By placing beginning and ending quotation marks around the first and second undesignated paragraphs, respectively, following the sentence ''The following language has appeared in tender documents issued by a boycotting country:'' in paragraph (a);

b. By revising the phrase ''Agreement to Refuse to Do Business'' to read ''Agreements to Refuse to Do Business'' in the last sentence of the third undesignated paragraph following the sentence ''The following language has appeared in tender documents issued by a boycotting country:'' in paragraph (a);

c. By revising the phrase ''§ 760.6(a)(1) of this part'' to read ''§ 760.5(a)(1) of this part'' in the last undesignated paragraph following the sentence ''The following language has appeared in tender documents issued by a boycotting country:'' in paragraph (a); and

d. By placing beginning and ending quotation marks around the first and second undesignated paragraphs, respectively, that follow the sentence ''The following terms frequently appear on letters of credit covering shipment to Iraq:'' in paragraph (b).

Dated: May 18, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 00–13251 Filed 5–31–00; 8:45 am]

BILLING CODE 3510–33–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD91

Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Medical and Other Evidence of Your Impairment(s) and Definition of Medical Consultant

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the Social Security and Supplemental Security Income (SSI) disability regulations regarding sources of evidence for establishing the existence of a medically determinable impairment under title II and title XVI of the Social Security Act (the Act). We are doing this to clarify and expand the list of acceptable medical sources and to revise the definition of the term ''medical consultant'' to include additional acceptable medical sources.

DATES: These rules are effective July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Georgia E. Myers, Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, 1–410–965–3632 or TTY 1–800–966–5609. For information about eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: The Act provides, in title II, for the payment of disability benefits to persons insured under the Act. Title II also provides, under certain circumstances, for the payment of child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults under both the title II and title XVI programs (including persons claiming child's insurance benefits based on disability under title II), ''disability'' means the inability to engage in any substantial gainful activity. For an individual under age 18 claiming SSI benefits based on disability, ''disability'' means that an impairment(s) causes ''marked and severe functional limitations.'' (Our regulations at § 416.902 explain that, *''[m]arked and severe functional*

limitations, when used as a phrase, * * * is a level of severity that meets or medically or functionally equals the severity of a listing in the Listing of Impairments in appendix 1 of subpart P of part 404 * * *.'') Under both title II and title XVI, disability must be the result of a medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months.

The Act also provides that an individual shall not be considered to be under a disability unless he or she furnishes such medical and other evidence of the existence of such impairment(s) as the Commissioner may require.

Explanation of Revisions

Sections 404.1513 and 416.913 provide that we need reports about an individual's impairments from acceptable medical sources; they also provide a list of ''acceptable medical sources.'' Acceptable medical sources are individuals who have the training and expertise to provide us with the signs and laboratory findings based on medically acceptable clinical and laboratory diagnostic techniques that establish the existence of a medically determinable physical or mental impairment.

We are amending §§ 404.1513 and 416.913 by revising the list of acceptable medical sources and making other changes to these and other sections of our regulations as explained below.

For clarity, we refer to the new rules, as revised in this regulatory publication, as ''final'' rules and to the rules that are being changed by these final rules as the ''prior'' rules. However, these final rules do not go into effect until 30 days after the date of this publication. Therefore, the ''prior'' rules will still be in effect for another 30 days.

Sections 404.1513 and 416.913 Medical Evidence of Your Impairment

We are revising the heading to read, ''*Medical and other evidence of your impairment(s)*'' to more accurately identify the subject of these sections. Even though these prior sections were called ''*Medical evidence of your impairment,*'' they have always described how we use evidence from both acceptable medical sources and other sources, such as (but not limited to) nurse-practitioners, chiropractors, school teachers, and social workers. Sections 223(d)(3) and 1614(a)(3)(D) of the Act require that an individual have a medically determinable physical or mental impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. To establish the existence of a medically determinable impairment, we require evidence from acceptable medical sources. However, as indicated in both the prior §§ 404.1513(e) and 416.913(e) and the final §§ 404.1513(d) and 416.913(d), we also may use evidence from other sources to help us understand how an adult's impairment(s) affects the ability to work and how a child's impairment(s) affects the ability to function.

We are revising the heading of §§ 404.1513(a) and 416.913(a) to ''*Sources who can provide evidence to establish an impairment*'' and the provisions of these paragraphs as well. These revisions make it clear that we need evidence from acceptable medical sources to establish the existence of a medically determinable impairment. We then continue to list the sources that we consider acceptable medical sources in final paragraphs (a)(1) through (a)(5). In addition, as described below, we are making some revisions to this list of acceptable medical sources. We are also adding a cross-reference to § 404.1508 in § 404.1513(a) and a cross-reference to § 416.908 in § 416.913(a). The regulations to which we are cross-referring, both entitled ''*What is needed to show an impairment,*'' describe the type of medical evidence we require to establish the existence of a medically determinable impairment.

We are revising prior paragraph (a)(1) (''Licensed physicians'') by combining it with prior paragraph (a)(2) (''Licensed osteopaths'') because osteopaths are physicians. Their medical degree is usually Doctor of Osteopathy (D.O.), rather than Doctor of Medicine (M.D.). Thus, a licensed physician may be either a medical or an osteopathic physician. Because of this consolidation of two paragraphs, we are renumbering prior paragraphs (a)(3) and (a)(4) as final paragraphs (a)(2) and (a)(3).

We have also added language to final paragraph (a)(2) (prior paragraph (a)(3), ''Licensed or certified psychologists'') to provide that licensed or certified school psychologists, or licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, are acceptable medical sources for establishing the existence of mental retardation, learning disabilities, and borderline intellectual functioning. The final provision reflects our longstanding operating instructions. It also includes an additional change, which did not appear in the proposed rules, that we have made in response to public comments.

Before including school psychologists as acceptable medical sources in our operating instructions for purposes of establishing the existence of mental retardation and learning disabilities, we conducted a State-by-State analysis of the educational qualifications and other requirements for their licensure or certification, and we had discussions with representatives of the National Association of School Psychologists on the issue of what school psychologists are uniformly qualified to do nationwide. Although the term ''licensed or certified psychologists'' encompasses school psychologists, we found that there was a lack of national uniformity among the States as to what school psychologists are allowed to do beyond assessing cognitive functioning, such as in the areas of mental retardation and learning disabilities. We determined, however, that licensed or certified school psychologists (or licensed or certified individuals with other titles who perform the same functions as school psychologists in school settings) are able to provide us with a complete medical report of manifestations related to these kinds of disorders. Therefore, we concluded that all individuals who are licensed or certified by their States as school psychologists (or approved in Michigan, which is equivalent to licensure or certification in other States) are medical sources who can establish the existence of mental retardation and learning disabilities. We discuss an additional change below in the *Public Comments* section, where we summarize and respond to the public comments we received following our publication of these regulatory provisions in the **Federal Register** as proposed rules on October 9, 1998 (63 FR 54417). The additional change is that we have concluded that these individuals are also acceptable medical sources for the purpose of establishing the existence of borderline intellectual functioning.

We are adding a new paragraph (a)(4) to include licensed podiatrists as acceptable medical sources for impairments of the foot, or foot and ankle, depending on the delineation in the State licensure. We have included these sources in our operating instructions for many years as acceptable medical sources for purposes of establishing the existence of a medically determinable impairment of the foot, or foot and ankle, because they are licensed to practice medicine and perform surgery on a specific part of the body. They can do everything that a physician is licensed to do with respect

to the foot, or foot and ankle, and have equal standing to physicians in this respect. Final paragraph (a)(4) provides that whether evidence from a given podiatrist can be used to establish the existence of a medically determinable impairment of the foot only, or the foot and ankle, will depend on the scope of practice of podiatry in a State; *i.e.,* whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or on the foot and ankle. Medical reports from podiatrists can provide us with all the evidence we require to establish the existence of a medically determinable impairment of the foot, or foot and ankle.

We are deleting prior paragraph (a)(5), which provided that persons authorized to send us a copy or summary of the medical records of a hospital or other institution were acceptable medical sources. Regardless of who is authorized to send us a medical report, the evidence itself must be provided by an acceptable medical source identified in final paragraphs (a)(1) through (a)(5). Similarly, we are deleting prior paragraph (a)(6) (that appears only in § 416.913), which provided that reports of an interdisciplinary team were acceptable medical sources as long as they contained the evaluation and signature of an acceptable medical source. It does not matter whether the evaluation by an acceptable medical source identified in final paragraphs (a)(1) through (a)(5) is included in an interdisciplinary team report or is contained in a separate report. Because acceptable medical sources are individuals, it is redundant and somewhat misleading to provide that an interdisciplinary team report containing the evaluation and signature of an acceptable medical source is such a source.

We are adding a new paragraph (a)(5) to include qualified speech-language pathologists as acceptable medical sources who can establish the existence of a speech or language impairment. For several years, we have included these individuals in our operating instructions as medical sources who can provide evidence to establish the existence of a medically determinable speech or language impairment in SSI childhood disability cases in which the child is found disabled. The final regulation now provides that these individuals are acceptable medical sources for speech and language impairments regardless of whether the determination or decision is favorable to the individual, and is applicable to both adults and children and to disability claims under both titles of the Act.

Before including qualified speech-language pathologists in our operating instructions, we conducted a State-by-State analysis of the educational qualifications and other requirements for licensure or certification of speech-language pathologists, and we had discussions with representatives of the American Speech-Language-Hearing Association. We determined that the evaluation report of a qualified speech-language pathologist can provide us with the detailed evidence we need about a person's communicative ability that enables us to determine the existence of a medically determinable speech or language impairment.

Final paragraph (a)(5) provides that ''qualified'' speech-language pathologists are individuals who are licensed by the State professional licensing agency, or fully certified by their State's education agency, or who hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association. We have cited State licensure as the first credential for speech-language pathologists to be consistent with the paragraphs for physicians and other acceptable medical sources in this section, all of which require that the individual be ''licensed.'' We have cited the State education agency certification as an alternative credential because some States do not have licensing agencies for speech-language pathologists; thus, the only State credential that speech-language pathologists have in such States is State education agency certification. To maintain either State licensure or State education agency certification, an individual must meet certain criteria (*e.g.,* must obtain 20 continuing education units in the field over a 2-year period). We have also cited a Certificate of Clinical Competence from the American Speech-Language-Hearing Association as another acceptable credential because it indicates that a speech-language pathologist has met the stringent criteria for education, training, examination, and clinical practice set forth by the American Speech-Language-Hearing Association.

Finally, we have made minor editorial revisions to the provisions in §§ 404.1513(a)(1) through (a)(5) and 416.913(a)(1) through (a)(5). The revisions, mostly to correct punctuation, are not substantive and are not intended to change the meaning of the provisions.

We are redesignating prior §§ 404.1513(d) and 416.913(d), ''*Completeness,*'' as §§ 404.1513(e) and 416.913(e). We are redesignating prior paragraph (e) of those sections, ''*Information from other sources,*'' as paragraph (d). Our intent in switching the positions of these two paragraphs is to make it clearer that, when we decide whether the evidence in a case is complete enough for a determination, we consider all the evidence in the case record, including the medical evidence from acceptable medical sources identified in paragraph (a), information from the individual, and any evidence that may have been provided by other sources, such as those identified in final paragraph (d).

We are also revising the language in final §§ 404.1513(d) and 416.913(d) (prior paragraph (e)) by making technical changes for clarity and for consistency between these provisions in parts 404 and 416, which contained some differences in our prior rules. We are also reorganizing and renumbering the subparagraphs in final paragraph (d). In addition, we are deleting the words ''*Information from*'' in the heading.

We are revising the first sentence of § 404.1513(d) to read: ''In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work.'' We are also revising the first sentence of § 416.913(d) to read: ''In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work or, if you are a child, your functioning.'' In both of these sentences, we are adding a reference to the severity of the individual's impairment(s) because we may use evidence from other sources to show impairment severity, as well as how it affects the ability to work or, in § 416.913(d), a child's functioning. In final § 416.913(d), we are changing the language ''or, if you are a child, your ability to function independently, appropriately, and effectively in an age-appropriate manner'' to ''or, if you are a child, your functioning,'' in response to section 211 of Public Law 104–193 which, on August 22, 1996, added a new paragraph 1614(a)(3)(C) to the Act that changed the definition of disability for individuals under age 18 claiming SSI benefits.

We are adding the phrase ''but are not limited to'' to the second sentence of final § 404.1513(d) to clarify that the list of other sources is not an exclusive list and to make it consistent with the language in prior § 416.913(e) (final § 416.913(d)). We also have deleted the words ''may'' and ''and'' from the

second sentence of final § 416.913(d), and inserted the word ''but'' after the phrase ''Other sources include'' to make it consistent with the second sentence of final § 404.1513(d).

In making these changes in the two sections, we are consolidating the provisions from prior §§ 416.913(e)(3) and (e)(4) in final paragraph (d)(1) and modifying the example of therapists that was in the proposed rules so that it is not restricted to just physical therapists. The examples in the proposed rules should not have been limited to physical therapists because there are other types of therapists, such as occupational therapists, as identified in prior § 416.913(e)(4), recreational therapists, and kinesiotherapists. We are deleting ''speech and language therapists'' from the examples that were in prior § 416.913(e)(4) because, as discussed earlier in this preamble, we are amending the regulations to include these individuals as acceptable medical sources. (However, in final § 404.1513(a)(5) and 416.913(a)(5), we use the term ''speech-language pathologists'' because it is a more accurate title for these health care professionals.)

We are clarifying in final §§ 404.1513(d)(1) and 416.913(d)(1), the list of individuals, such as nurse-practitioners and audiologists, who provide some medical services by adding the phrase, ''Medical sources not listed in paragraph (a) of this section.'' We are including in §§ 404.1513(d)(1) and 416.913(d)(1) some of the examples of other medical sources that previously were contained only in prior § 404.1513(e)(3) or only in prior § 416.913(e)(3) and (e)(4). The prior provisions did not provide all the same examples, and the final rules are now consistent in parts 404 and 416.

Final §§ 404.1513(d)(2) and 416.913(d)(2) reflect provisions that were only in prior § 416.913(e)(5).

We are adding the word ''personnel'' in final §§ 404.1513(d)(3) and 416.913(d)(3). The prior sections (§§ 404.1513(e)(1) and 416.913(e)(1)) referred to public and private social welfare ''agencies.'' However, when we refer to ''sources'' in these rules, we mean people, not entities. This change also makes the provision similar to other provisions within these sections.

We begin final §§ 404.1513(d)(4) and 416.913(d)(4) with the phrase, ''Other non-medical sources,'' instead of ''Observations by,'' to make the construction of final paragraph (d)(4) parallel to that of final paragraphs (d)(1) through (d)(3). We are also adding the language ''(for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy)'' to final § 404.1513(d)(4) to make it consistent with the language in prior § 416.913(e)(2) (final § 416.913(d)(4)).

As is discussed below in the *Public Comments* section, we revised the proposed first sentence of final §§ 404.1513(e) and 416.913(e) (prior paragraph (d)) to read: ''The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in paragraph (a), information you give us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind.'' In the Notice of Proposed Rulemaking (NPRM), we proposed to simplify the sentence by deleting any reference to the medical evidence and referring only to ''the evidence'' in a claim. A commenter believed that it would be better to retain reference to the medical evidence and simply to refer to the types of evidence we obtain. As in the proposed rules, the change in the final rules will clarify that we do not look only at medical evidence from the acceptable medical sources identified in paragraph (a), but also at information provided by the individual and any evidence that might have been provided by other sources, as described in final paragraph (d), when we make a determination whether the individual is disabled or blind.

We have revised final paragraph (e)(1) by deleting the term ''limiting effects'' and substituting in its place the word ''severity,'' which more accurately conveys the statutory requirement that an individual must have a severe impairment to be found disabled. We are revising the language in final paragraph (e)(2) to more accurately refer to whether the duration requirement, as described in §§ 404.1509 and 416.909, is met.

We are revising final paragraph (e)(3) by qualifying the language about residual functional capacity because the combined evidence must be complete and detailed enough to allow us to determine the individual's residual functional capacity only when the evaluation steps described in §§ 404.1520(e) or (f)(1) and 416.920(e) or (f)(1) apply. We are also adding the phrase ''or, if you are a child, your functioning'' to § 416.913(e)(3) because ability to function is the relevant issue that we must determine for a child, not residual functional capacity.

Other Changes

Sections 404.1503 and 416.903 Who Makes Disability and Blindness Determinations.

We have removed the last sentence in paragraph (e) because it addressed only the role in disability determinations of psychological consultants, and did not address the parallel situations of speech-language pathologists and other consultants. We now provide more comprehensive rules in revised paragraphs (c) and (f) of §§ 404.1616 and 416.1016. We explain that non-physician medical consultants and psychological consultants can only evaluate impairments within their area of expertise.

Sections 404.1512 and 416.912 Evidence of Your Impairment.

We are changing the cross-reference in paragraph (b)(4) from paragraph (e) to paragraph (d) to reflect the reversal and redesignation of these two paragraphs already explained above.

Sections 404.1526 and 416.926 Medical Equivalence

We are revising the second sentence in paragraph (c) of §§ 404.1526 and 416.926 to indicate that a medical consultant must be an acceptable medical source identified in §§ 404.1513(a)(1) or (a)(3) through (a)(5) and 416.913(a)(1) or (a)(3) through (a)(5). We believe the acceptable medical sources identified in these sections, in addition to physicians, are fully qualified to serve as medical consultants within their areas of expertise.

As we discuss below in the *Public Comments* section, we received comments indicating that our intent was unclear. Accordingly, we are also revising the last sentence of paragraph (c), the parenthetical cross-references to §§ 404.1616 and 416.1016. The additional language we have included in final §§ 404.1616 and 416.1016 clarifies that medical consultants who are not physicians are limited to evaluating impairments within their specialties; for example, a speech-language pathologist functioning as a medical consultant would be able to provide an opinion about medical equivalence only with respect to a speech or language impairment.

Sections 404.1615 and 416.1015 Making Disability Determinations

We are removing the last sentence in paragraph (d). In the NPRM, we inadvertently failed to propose deleting this last sentence, which is the exact same provision contained in the last

sentence we are removing in paragraph (e) of §§ 404.1503 and 416.903. Therefore, for the same reasons discussed earlier for the deletion in §§ 404.1503 and 416.903, we are deleting this last sentence as well from §§ 404.1615(d) and 416.1015(d).

Sections 404.1616 and 416.1016 Medical or Psychological Consultants

In the NPRM, we proposed to revise the first sentence in §§ 404.1616 and 416.1016 to indicate that a medical consultant must be an acceptable medical source identified in §§ 404.1513(a)(1) or (a)(3) through (a)(5) and 416.913(a)(1) or (a)(3) through (a)(5). As we discuss below in the *Public Comments* section, we received a number of comments that indicated to us that our intent was unclear or that recommended additional rules defining the authority of medical consultants who are not physicians. Accordingly, we have extensively revised §§ 404.1616 and 416.1016.

The final rules now contain six paragraphs, designated (a) through (f). Paragraph (a), ''*What is a medical consultant*?'' explains that a ''medical consultant'' is a person who is a member of a team that makes disability determinations in a State agency, as explained in §§ 404.1615 and 416.1015, or who is a member of a team that makes disability determinations for us when we make disability determinations ourselves.

Paragraph (b), ''*What qualifications must a medical consultant have*?'' provides that a medical consultant must be an acceptable medical source identified in §§ 404.1513(a)(1) and (a)(3) through (a)(5) and 416.913(a)(1) and (a)(3) through (a)(5) and names all of the acceptable medical sources, in addition to cross-referencing these provisions as we had done in the NPRM. We believe that this is a clearer way to explain who is included. The paragraph also provides that the medical consultant must meet any appropriate qualifications for his or her specialty as explained in § § 404.1513(a) or 416.913(a).

Final paragraph (c) is called, ''*Are there any limitations on what medical consultants who are not physicians can evaluate*?'' In this paragraph, we clarify in response to comments what was always our intent: that even though any individual who is an acceptable medical source may be a medical consultant, medical consultants who are not physicians are limited to evaluations to the same extent that they would be limited in providing evidence of a medically determinable impairment. We provide an example explaining the limitations of a State agency medical consultant who, as a team member that makes disability determinations, is a speech-language pathologist.

Paragraph (d) is called, ''*What is a psychological consultant*?'' It explains that a psychological consultant may function in the same capacity as any of the individuals in paragraph (a) except that they are limited to the evaluation of mental impairments.

Paragraph (e) incorporates the second and third sentences of the opening paragraph of prior §§ 404.1616 and 416.1016, and paragraphs (a), (b), and (c) of those sections. We have incorporated the provisions verbatim. The only differences are in the letter and number designations of the paragraph and subparagraphs and the new heading we added to final paragraph (e) for consistency with the headings of the previous paragraphs. The prior provisions did not use headings.

Paragraph (f) is called, ''*Are there any limitations on what a psychological consultant can evaluate*?'' It parallels paragraph (c) of this section, discussed above.

Public Comments

We published these regulatory provisions in the **Federal Register** as an NPRM on October 9, 1998 (63 FR 54417). The comment period closed on December 8, 1998. We received comments in response to this notice from 12 individuals and organizations, including government agencies whose interests and responsibilities require them to have some expertise in the evaluation of medical evidence used in making disability determinations under titles II and XVI of the Act. We also received comments from a private, non-profit organization for the disabled, an individual attorney, health care professional organizations, and an employee union.

Most of the commenters stated that they supported the proposed rules. However, a number of commenters offered suggestions for revisions and additions, as explained below. Three commenters supported the rules without making any recommendations. One commenter opposed all of the rules. Because some of the comments were similar, we condensed, summarized, or paraphrased them. We have, however, tried to summarize the commenters' views accurately and to respond to all of the significant issues raised by the commenters that are within the scope of these rules.

Comment: Two commenters recommended that we revise paragraph (a)(2) of §§ 404.1513 and 416.913 to include borderline intellectual functioning in the list of impairments that can be established by evidence from licensed or certified school psychologists.

Response: We adopted the comments. As one of the commenters noted, borderline intellectual functioning is a medically determinable mental impairment that results from psychological abnormalities demonstrable by medically acceptable clinical and laboratory diagnostic techniques. It is usually assigned to individuals who have an intelligence quotient (IQ) score in the 71–84 range and for whom the diagnosis of mental retardation has been excluded. School psychologists are qualified to assess cognitive abilities at all levels, and we agree that they can establish the existence of borderline intellectual functioning.

Comment: One commenter recommended that we expand proposed paragraph (a)(5) of §§ 404.1513 and 416.913 to permit qualified speech-language pathologists to establish speech, language, ''or related (*e.g.,* swallowing)'' impairments. The commenter also recommended that we expand the qualification criterion in the proposed rules concerning meeting State education agency standards to say: ''* * * provided such standards are consistent with the highest requirements for State-approved or State-recognized certification, licensing, registration, or other comparable requirements for speech-language pathologists.'' The commenter believed that this would make clear that the word ''qualified'' refers to individuals who have met the requirements in the State, and would ensure that only those individuals with sufficient training and clinical expertise are allowed to provide evidence used in making a disability determination.

Response: We are not adopting the recommendation to consider speech-language pathologists as acceptable medical sources for ''related (*e.g.,* swallowing)'' impairments. Because of the complex anatomical and physiological construct involved in the swallowing mechanism, specific knowledge and training that encompass the medical areas of neurology, otolaryngology, and gastroenterology are required for the proper interpretation of laboratory and imaging studies necessary in arriving at the diagnosis, prognosis, and treatment regimen pertaining to the variety of disorders associated with swallowing. Therefore, we will continue to require evidence from a licensed physician to establish

the existence of a medically determinable swallowing impairment.

We are also not adopting the second comment about State education agency standards being consistent with the highest State requirements because it would not be feasible for us to constantly monitor such standards and requirements in each State.

For reasons already noted above in the summary of the changes in these final rules, we have cited State licensure as the first credential in the rule.

Comment: One commenter recommended that we not delete paragraph (a)(6) of § 416.913, the paragraph that addresses interdisciplinary assessments in which there is a signature from an acceptable medical source. The commenter believed that this paragraph helps to avoid confusion about the acceptability of evidence that is signed by both a medical and a nonmedical source. The commenter also recommended that we add the same provision to § 404.1513.

Response: We did not adopt the comment because the construction of paragraph (a)(6) is confusing and not parallel to the construction of the other paragraphs in paragraph (a). Paragraph (a) concerns who is an acceptable medical source, not what is ''acceptable medical evidence.'' Moreover, an acceptable medical source must be a person, not ''[a] report'' as stated in paragraph (a)(6). The fact that an interdisciplinary team report is co-signed by both a medical and nonmedical source does not mean that the report cannot be considered ''acceptable medical evidence,'' *i.e.,* evidence from an acceptable medical source. Provided that the medical source is an acceptable medical source identified in final paragraphs (a)(1) through (a)(5) of § § 404.1513 and 416.913, it does not matter whether an evaluation signed by an acceptable medical source is included in an interdisciplinary team report or is contained in a separate report.

Comment: Three commenters recommended that we include other medical professionals in our list of acceptable medical sources. One commenter recommended that we include optometrists for the determination of other aspects of eye diseases, in addition to the measurement of visual acuity and visual fields. Another commenter recommended that we recognize audiologists as acceptable medical sources for purposes of establishing hearing or related (*e.g.,* balance) impairments only. This source recommended criteria for establishing that an audiologist is ''qualified'' for our program. The third commenter recommended that we include pediatric nurse-practitioners for establishing the existence of medically determinable impairments in children.

Response: We did not adopt the comments. Sections 223(d)(3) and 1614(a)(3)(D) of the Act require that an individual have a medically determinable physical or mental impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. In keeping with these statutory provisions, we generally consider licensed physicians and licensed or certified psychologists, who are the most qualified health care professionals, as ''acceptable medical sources'' who can establish the existence of a medically determinable impairment. We have also provided in these final rules that podiatrists and speech-language pathologists may be acceptable medical sources, not only because of their unique qualifications, but because we have determined that there is sufficient standardization of their qualifications across the States for us to provide rules for their general use in claims. We have not determined this for other specialties. Therefore, we believe it would be inappropriate to include these additional specialties at this time.

However, we want to make clear that we consider information from the sources named in the comments to be important evidence when we determine the severity of an individual's impairment. The rules on who is an acceptable medical source address a single, narrow issue in our disability evaluations: who can provide evidence to establish whether an individual has a medically determinable impairment as required by the Act. Once an individual has crossed this threshold, we can and do consider all evidence that helps us to determine the severity of the impairment and its effects on the individual. For this critical aspect of the disability determination process, we will continue to use information from the sources named in the comments.

Comment: One commenter disagreed with our inclusion of licensed or certified psychologists, school psychologists and speech-language pathologists as ''acceptable medical sources'' in our regulations. The commenter said that we should clarify that these sources are acceptable sources of evidence but that they are not ''medical'' sources. The commenter believed that ''medical'' sources should refer only to physicians and that Congress did not intend for us to include any of the other sources.

Response: We did not adopt the comment. Sections 223(d)(3) and 1614(a)(3)(D) of the Act define a medically determinable impairment as one that results from ''anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.'' As we noted in the preamble to the proposed rules, we have included licensed or certified school psychologists (or licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting) and speech-language pathologists as ''acceptable medical sources'' because we have determined that they can provide us with medical evidence to establish the existence of a medically determinable impairment within their areas of specialty using ''medically acceptable clinical and laboratory diagnostic techniques,'' as defined in section 223(d)(3) of the Act. We have included licensed or certified psychologists in our regulations defining acceptable medical sources for many years, and, in fact, section 221(h) of the Act refers to these sources as qualified to complete the medical portion of our case review where there is evidence which indicates the existence of a mental impairment.

Comment: Five of the commenters commented about the provisions in § § 404.1526(c), 404.1616, 416.926(c) and 416.1016 of the proposed rules that would define the term ''medical consultant'' to include any acceptable medical source in § § 404.1513(a)(1) or (a)(3) to (a)(5) and 416.913(a)(1) or (a)(3) to (a)(5). One commenter simply noted that this would permit licensed optometrists, licensed podiatrists, and qualified speech-language pathologists to function as ''medical consultants,'' but the commenter did not note approval or disapproval or make any recommendations. Two commenters indicated that such sources would have limited usefulness as medical consultants in the State agencies that make disability determinations for us because their expertise is so narrow. One of these commenters recommended that we should include provisions defining the authority of these individuals in § § 404.1526(c) and 416.926(c), our regulations on ''*Who is a designated medical or psychological consultant*'' for purposes of determining medical equivalence, and in § § 404.1616 and 416.1016, our regulations defining the standards for

who can be a medical or psychological consultant.

Two commenters opposed expanding the definition of medical consultant to include optometrists, podiatrists, and speech-language pathologists as medical consultants. One commenter believed that there was no rational justification in the proposed regulations for the ''dramatic'' change, and was concerned that the change would jeopardize the integrity of the disability programs, especially if it is implemented in conjunction with some of the Disability Redesign proposals. This commenter, while opposing the use of the sources as medical consultants, otherwise generally agreed with our proposal to consider these sources to be acceptable medical sources for purposes of providing medical evidence we need to establish the existence of a medically determinable impairment.

The last commenter, who opposed using these sources even as ''acceptable medical sources'' for establishing the existence of medically determinable impairments, focused on the proposal as it affected § § 404.1526 and 416.926. This commenter indicated that the sources were ''nonqualified.'' The commenter provided a number of specific reasons that they should not be permitted to make determinations of medical equivalence, primarily because they would be making decisions regarding areas for which they have no training or expertise and for which they are unlicensed under the law of any State. The commenter also recommended that we revise the medical equivalence regulations to clarify the various ways in which we make findings of medical equivalence. The commenter also stated that we should specify that all claims of combined mental and physical disorders should be reviewed by a psychiatrist to ensure that all aspects of mental and physical disorders are considered in rating the severity of impairment at any step of our process for determining disability.

Response: We are revising § § 404.1616 and 416.1016 in response to these comments. We are also adding a cross-reference to § § 404.1616 and 416.1016 for medical consultants who are not physicians at the end of § § 404.1526(c) and 416.926(c) as we have noted in the explanation of the changes.

As two of the commenters recognized, our intent in the NPRM was to limit the authority of licensed optometrists, licensed podiatrists, and qualified speech-language pathologists to evaluate impairments with regard to their areas of expertise delineated in proposed § § 404.1513(a) and 416.913(a). However, the comments made us realize that our intent was not clear and could be misinterpreted. Therefore, we have expanded final § § 404.1616 and 416.1016 to provide explicitly that acceptable medical sources other than physicians (*i.e.,* licensed optometrists, licensed podiatrists, and qualified speech-language pathologists) may function as medical consultants, but their authority in helping to make determinations and in providing opinions about medical equivalence and elsewhere is limited to their area of expertise.

Although it was unclear from the comment which disability redesign proposals one of the commenters referred to, we disagree with that comment. We believe that providing State agencies with the opportunity to use these additional specialists in a consulting capacity will improve their ability to make timely, accurate decisions.

With regard to the comment asking us to include the various ways we make findings of medical equivalence, we believe that the change is outside the scope of our authority because we did not propose the change. However, we will consider this comment when we propose other changes in the future.

In making the revisions to § § 404.1616 and 416.1016 in response to these comments, we added new paragraphs with letter and number designations. Therefore, we had to redesignate the paragraph letters and numbers from the prior rules that describe qualified psychologists. Apart from the change in the designations of the letters and numbers of the paragraphs, we did not change the language of those paragraphs.

In response to the last comment, regarding review by a psychiatrist of any case involving a combination of mental and physical disorders, we are providing in final paragraph (c) of § § 404.1616 and 416.1016 that a physician must evaluate the case record, except when the mental impairment alone would justify a finding of disability. However, we do not agree with the commenter that a psychiatrist will be the best physician to assess a combination of mental and physical disorders in all claims. There are claims in which it is more appropriate to use other specialists for the overall review in consultation with a psychiatrist or psychologist.

Comment: One of the foregoing commenters also pointed out that the first sentence of prior § § 404.1616 and 416.1016 seemed incomplete. The commenter noted that the heading of these regulations referred to ''*Medical or psychological consultant*,'' yet the first sentence referred only to medical consultants. The commenter provided a recommended revision that would include psychological consultants.

Response: We adopted the comment, although not in the exact way suggested by the commenter. In response to this, and the comments already noted, we have revised the entire sections to clarify their provisions.

Comment: One commenter suggested that we revise proposed § § 404.1513(e) and 416.913(e) (prior § § 404.1513(d) and 416.913(d)) to read: ''The medical evidence, including the clinical and laboratory find[ing]s, and other evidence from other sources must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind.'' The commenter believed that it would be better to retain reference in our regulations to the medical and other evidence we need to establish the existence of a medically determinable impairment and its severity.

Response: We adopted the comment, but did not use the exact language proposed by the commenter. We believe that the commenter's proposed language could be misinterpreted to mean that each piece of evidence must be complete and detailed enough in and of itself for us to make the various findings listed in these regulation sections, or that we must try to obtain all available evidence, even after the record is complete and detailed enough for us to make a determination or decision.

Therefore, the final rule provides: ''The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in paragraph (a), information you give us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind.'' We changed the phrase near the end to ''make a determination or decision'' for technical reasons. Under our regulations § § 404.901 and 416.1401, the term ''determination'' means the initial or reconsidered determination, and the term ''decision'' means the decision made by an administrative law judge or the Appeals Council. This is not a substantive change in the rule, only a clarification of its meaning to show that it applies to all of our adjudicators.

Regulatory Procedures

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 (E.O.) 12866. Therefore, they were not subject to OMB review. We have also determined that these rules meet the plain language requirements of E.O. 12866 and the President's memorandum of June 1, 1998.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These final regulations impose no new reporting or recordkeeping requirements subject to OMB clearance. (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

20 CFR Part 404

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

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: May 22, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subparts P and Q of part 404 and subparts I and J of part 416 of 20 CFR chapter III are 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.

§ 404.1503 [Amended]

2. Section 404.1503 is amended by removing the last sentence of paragraph (e).

3. Section 404.1512 is amended by revising paragraph (b)(4) to read as follows:

§ 404.1512 Evidence of your impairment.

* * * * *

(b) * * *

(4) Information from other sources, as described in § 404.1513(d);

* * * * *

4. Section 404.1513 is amended by revising the heading and paragraphs (a), (d), and (e) to read as follows:

§ 404.1513 Medical and other evidence of your impairment(s).

(a) *Sources who can provide evidence to establish an impairment.* We need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). See § 404.1508. Acceptable medical sources are—

(1) Licensed physicians (medical or osteopathic doctors);

(2) Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning only;

(3) Licensed optometrists, for the measurement of visual acuity and visual fields (we may need a report from a physician to determine other aspects of eye diseases);

(4) Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle; and

(5) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only. For this source, ''qualified'' means that the speech-language pathologist must be licensed by the State professional licensing agency, or be fully certified by the State education agency in the State in which he or she practices, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

* * * * *

(d) *Other sources.* In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work. Other sources include, but are not limited to—

(1) Medical sources not listed in paragraph (a) of this section (for example, nurse-practitioners, physicians' assistants, naturopaths, chiropractors, audiologists, and therapists);

(2) Educational personnel (for example, school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers);

(3) Public and private social welfare agency personnel; and

(4) Other non-medical sources (for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy).

(e) *Completeness.* The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in paragraph (a) of this section, information you give us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine—

(1) The nature and severity of your impairment(s) for any period in question;

(2) Whether the duration requirement described in § 404.1509 is met; and

(3) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in § 404.1520(e) or (f)(1) apply.

5. Section 404.1526 is amended by revising the second and fourth sentences of paragraph (c) to read as follows:

§ 404.1526 Medical equivalence.

* * * * *

(c) *Who is a designated medical or psychological consultant.* * * * A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5). * * * (See § 404.1616 for limitations on what medical consultants who are not physicians can evaluate and the qualifications we consider necessary for a psychologist to be a consultant.)

Subpart Q—[Amended]

6. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

§ 404.1615 [Amended]

7. Section 404.1615 is amended by removing the last sentence of paragraph (d).

8. Section 404.1616 is revised to read as follows:

§ 404.1616 Medical or psychological consultants.

(a) *What is a medical consultant*? A medical consultant is a person who is a member of a team that makes disability determinations in a State agency, as explained in § 404.1615, or who is a member of a team that makes disability determinations for us when we make disability determinations ourselves.

(b) *What qualifications must a medical consultant have*? A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5); that is, a licensed physician (medical or osteopathic), a licensed optometrist, a licensed podiatrist, or a qualified speech-language pathologist. The medical consultant must meet any appropriate qualifications for his or her specialty as explained in § 404.1513(a).

(c) *Are there any limitations on what medical consultants who are not physicians can evaluate*? Medical consultants who are not physicians are limited to evaluating the impairments for which they are qualified, as described in § 404.1513(a). Medical consultants who are not physicians also are limited as to when they may serve as a member of a team that makes a disability determination. For example, a speech-language pathologist who is a medical consultant in a State agency may be a member of a team that makes a disability determination in a claim only if a speech or language impairment is the only impairment in the claim or if there is a combination of a speech or language impairment with another impairment but the speech or language impairment alone would justify a finding of disability. In all other cases, a physician will be a member of the team that makes a disability determination, except in cases in which this function may be performed by a psychological consultant as discussed in paragraph (f) of this section and § 404.1615(d).

(d) *What is a psychological consultant*? A psychological consultant is a psychologist who has the same responsibilities as a medical consultant explained in paragraph (a) of this section, but who can evaluate only mental impairments.

(e) *What qualifications must a psychological consultant have?* A psychological consultant used in cases where there is evidence of a mental impairment must be a qualified psychologist. For disability program purposes, a psychologist will not be considered qualified unless he or she:

(1) Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and

(2)(i) Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation; or

(ii) Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and

(3) Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

(f) *Are there any limitations on what a psychological consultant can evaluate?* Psychological consultants are limited to the evaluation of mental impairments, as explained in § 404.1615(d). Psychological consultants also are limited as to when they can serve as a member of a team that makes a disability determination. They may do so only when a mental impairment is the only impairment in the claim or when there is a combination of a mental impairment with another impairment but the mental impairment alone would justify a finding of disability.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

9. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)-(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

§ 416.903 [Amended]

10. Section 416.903 is amended by removing the last sentence of paragraph (e).

11. Section 416.912 is amended by revising paragraph (b)(4) to read as follows:

§ 416.912 Evidence of your impairment.

* * * * *

(b) * * *

(4) Information from other sources, as described in § 416.913(d);

* * * * *

12. Section 416.913 is amended by revising the heading and paragraphs (a), (d), and (e) to read as follows:

§ 416.913 Medical and other evidence of your impairment(s).

(a) *Sources who can provide evidence to establish an impairment.* We need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). See § 416.908. Acceptable medical sources are—

(1) Licensed physicians (medical or osteopathic doctors);

(2) Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning only;

(3) Licensed optometrists, for the measurement of visual acuity and visual fields (see paragraph (f) of this section for the evidence needed for statutory blindness);

(4) Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle; and

(5) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only. For this source, ''qualified'' means that the speech-language pathologist must be licensed by the State professional licensing agency, or be fully certified by the State education agency in the State in which he or she practices, or hold a Certificate of Clinical Competence from the American-Speech-Language-Hearing Association.

* * * * *

(d) *Other sources.* In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work or, if you are a child, your functioning. Other sources include, but are not limited to—

(1) Medical sources not listed in paragraph (a) of this section (for example, nurse-practitioners,

physicians' assistants, naturopaths, chiropractors, audiologists, and therapists);

(2) Educational personnel (for example, school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers);

(3) Public and private social welfare agency personnel; and

(4) Other non-medical sources (for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy).

(e) *Completeness.* The evidence in your case record, including the medical evidence from acceptable medical sources (containing the clinical and laboratory findings) and other medical sources not listed in paragraph (a) of this section, information you give us about your medical condition(s) and how it affects you, and other evidence from other sources, must be complete and detailed enough to allow us to make a determination or decision about whether you are disabled or blind. It must allow us to determine—

(1) The nature and severity of your impairment(s) for any period in question;

(2) Whether the duration requirement described in § 416.909 is met; and

(3) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in § 416.920(e) or (f)(1) apply, or, if you are a child, your functioning.

* * * * *

13. Section 416.926 is amended by revising the second and fourth sentences of paragraph (c) to read as follows:

§ 416.926 Medical equivalence for adults and children.

* * * * *

(c) Who is a designated medical or psychological consultant. * * * A medical consultant must be an acceptable medical source identified in § 416.913(a)(1) or (a)(3) through (a)(5). * * * (See § 416.1016 for limitations on what medical consultants who are not physicians can evaluate and the qualifications we consider necessary for a psychologist to be a consultant.)

* * * * *

Subpart J—[Amended]

14. The authority citation for subpart J of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

§ 416.1015 [Amended]

15. Section 416.1015 is amended by removing the last sentence of paragraph (d).

16. Section 416.1016 is revised to read as follows:

§ 416.1016 Medical or psychological consultants.

(a) What is a medical consultant? A medical consultant is a person who is a member of a team that makes disability determinations in a State agency, as explained in § 416.1015, or who is a member of a team that makes disability determinations for us when we make disability determinations ourselves.

(b) What qualifications must a medical consultant have? A medical consultant must be an acceptable medical source identified in § 416.913(a)(1) or (a)(3) through (a)(5); that is, a licensed physician (medical or osteopathic), a licensed optometrist, a licensed podiatrist, or a qualified speech-language pathologist. The medical consultant must meet any appropriate qualifications for his or her specialty as explained in § 416.913(a).

(c) Are there any limitations on what medical consultants who are not physicians can evaluate? Medical consultants who are not physicians are limited to evaluating the impairments for which they are qualified, as described in § 416.913(a). Medical consultants who are not physicians also are limited as to when they may serve as a member of a team that makes a disability determination. For example, a speech-language pathologist who is a medical consultant in a State agency may be a member of a team that makes a disability determination in a claim only if a speech or language impairment is the only impairment in the claim or if there is a combination of a speech or language impairment with another impairment but the speech or language impairment alone would justify a finding of disability. In all other cases, a physician will be a member of the team that makes a disability determination, except in cases in which this function may be performed by a psychological consultant as discussed in paragraph (f) of this section and § 416.1015(d).

(d) What is a psychological consultant? A psychological consultant is a psychologist who has the same responsibilities as a medical consultant explained in paragraph (a) of this section, but who can evaluate only mental impairments.

(e) What qualifications must a psychological consultant have? A psychological consultant used in cases where there is evidence of a mental impairment must be a qualified psychologist. For disability program purposes, a psychologist will not be considered qualified unless he or she:

(1) Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and

(2)(i) Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation; or

(ii) Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and

(3) Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

(f) Are there any limitations on what a psychological consultant can evaluate? Psychological consultants are limited to the evaluation of mental impairments, as explained in § 416.1015(d). Psychological consultants also are limited as to when they can serve as a member of a team that makes a disability determination. They may do so only when a mental impairment is the only impairment in the claim or when there is a combination of a mental impairment with another impairment but the mental impairment alone would justify a finding of disability.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the general redelegations of authority from the Commissioner of Food and Drugs to other officers of FDA. On June 20, 1999, the Commissioner of Food and Drugs restructured FDA ''to create a more streamlined and efficient Office of the Commissioner that will provide leadership without compromising programmatic effectiveness.'' In this restructuring, organizational