

# Social Security

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## Disability Insurance

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(PPS-79)

SSR 82-63

### SSR 82-63: TITLES II AND XVI: MEDICAL-VOCATIONAL PROFILES SHOWING AN INABILITY TO MAKE AN ADJUSTMENT TO OTHER WORK

**PURPOSE:** To clarify that there are two "medical-vocational profiles" which show an inability to make a vocational adjustment to other work (or any work) and which must be considered before a disability decision-maker refers to Appendix 2 of Subpart P of Regulations No. 4 to determine whether a claimant can do work which exists in significant numbers in the national economy, considering the interaction of the claimant's residual functional capacity (RFC), age, education, and work experience. The characteristics of these two profiles are: (1) marginal education and long work experience limited to arduous unskilled physical labor and (2) advanced age, limited education and no work experience.

**CITATIONS (AUTHORITY):** Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act, as amended; Regulations No. 4, Subpart P, sections 404.1505(a), 404.1520(f), 404.1521, 404.1545, 404.1560, 404.1561, 404.1562, 404.1563(d), 404.1564, 404.1565, and 404.1568; Appendix 2 of Subpart P, Regulations No. 4, sections 203.00(b) and (c); and Regulations No. 16, Subpart I, sections 416.905(a), 416.920(f), 416.921, 416.945, 416.960, 416.961, 416.962, 416.963(d), 416.964, 416.965 and 416.968.

**INTRODUCTION:** The law provides that, in order to be found disabled, an individual (except for a title II widow, widower, or surviving divorced spouse or a title XVI child younger than age 18 or a "statutorily blind" individual) must have a medically determinable physical or mental impairment(s) of such severity that he or she is not only unable to do previous work but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. Sections 404.1520/416.920 of the regulations provide a sequential evaluation process whereby current work activity, severity and duration of the impairment(s), ability to do past work, and vocational factors are considered in that order. In the fifth and last step of the sequential evaluation process, consideration is given to the impaired individual's capability to perform other work differing from that of his

or her past relevant work experience (or, in the case of a person without work experience, his or her capability to begin to work). At this step, we consider what the person can do functionally and the vocational factors of his or her age, education, and work experience.

#### *Work Experience Limited to Arduous Unskilled Physical Labor*

Regulations issued in 1957 to implement the title II disability program provided for the consideration of vocational factors in addition to the primary consideration given to the severity of the worker's impairment.

In 1960, section 404.1502(c) was added to the regulations as the first specific directive for a finding of disability based on both medical and vocational factors. That section described an individual whose vocational limitations are so restrictive that the existence of an impairment which prevents the individual from doing his or her usual level of work would ordinarily justify a finding of disability. The provisions of former section 404.1502(c) are now reflected in sections 404.1562/416.962 of the regulations. These sections address the claimant who has only a marginal education and work experience limited to 35 years or more of arduous unskilled physical labor. Rule 203.01 in Table No. 3 of Appendix 2 somewhat approximates the criteria in those sections. However, should rule 203.01 be referred to before sections 404.1562/416.962, an individual younger than age 60 with a background of 35 years or more in unskilled arduous physical labor might be overlooked.

#### *No Work Experience*

Under title II, a person must have a significant and recent attachment to the work force to acquire disability insured status.

Disability benefits under title XVI were first payable in 1974. Under the title XVI program, financial need -- low income and resources -- is an eligibility criterion rather than disability insured status. However, the disability evaluation standards are essentially the same for both titles II and XVI. Since a large number of title XVI claimants have little or no work history, the question arose as to how much adjudicative weight should be given to the absence of work experience. The lack of work experience is a vocationally adverse factor in that a person who has not been in the labor market has not developed any basic knowledge of work products or services, the ability to relate and communicate to supervisors and coworkers, the work habits of scheduling time, etc. Recognizing that as a person grows older the ability to compensate for the lack of work experience diminishes, the Social Security Administration (SSA) established a policy in 1975 which provided that, up to a point, all other factors being equal, claimants without work experience and those who have performed only unskilled work would be treated the same. That point is advanced age. The policy decision, in effect, directs a finding of disability where a person has a severe impairment of any nature, is of advanced age, has only the limited educational competence required for unskilled work, and has no work experience at all or no recent and relevant work experience.

Rules 203.02 and 203.10 in Table No. 3 of Appendix 2 reflect the policy decision in July 1975 with respect

to persons who have a severe exertional impairment which limits them to the medium level of work exertion. However, should only rules 203.02 and 203.10 be considered, a person with a severe nonexertional impairment who is of advanced age, has a limited education, and has no recent and relevant work experience might not be found to be disabled.

**POLICY STATEMENT:** When an adjudicator has reached the last step of the sequential evaluation process -- sections 404.1520(f)/416.920(f) of the regulations -- he or she must consider two medical-vocational profiles which direct decisions of disability before considering the numbered rules in Appendix 2 of the regulations.

*1. Work Experience Limited to Arduous Unskilled Physical Labor*

Sections 404.1562/416.962 of the regulations describe a set of functional and vocational limitations which present such an unfavorable vocational profile that an inability to make a vocational adjustment to other work may be inferred if the person meets these requirements and is not engaging in substantial gainful activity. To meet the criteria of these sections, the person must have a marginal education and long work experience (i.e., 35 years or more) limited to the performance of arduous unskilled physical labor which can no longer be performed because of a severe impairment(s). Careful examination of the evidence, including a description of all jobs the individual has held (with sufficient details about job content to show any skills involved and the level of physical exertion required) is necessary to establish whether the individual meets each criterion. The adjudicator must make a complete assessment of all the pertinent elements in the regulations. While there is room for judgment in determining whether the criteria of sections 404.1562/416.962 are met, judgment cannot be used to substitute for basic documentation, to broaden the intent of the regulations, or to disregard specified criteria. Rule 203.01 of Appendix 2 contains criteria which somewhat approximate those in sections 404.1562/416.962. When neither set of criteria is met, a substantive decision regarding disability requires an assessment of the person's capacity for other work on the basis of the principles and definitions in the regulations and rules other than 203.01 in Appendix 2.

*Severity of Impairment*

For the purpose of evaluation under sections 404.1562/416.962 of the regulations, an impairment must be severe and prevent the performance of arduous physical labor. It is necessary to assess the person's RFC and to relate it to the physical and mental demands of his or her arduous work background.

*History of Arduous Unskilled Work*

The individual's work history must have the following characteristics:

a. Duration of Work Experience 35 Years or More

This criterion assures that the person has a long-term commitment to work which is arduous and

unskilled.

b. Arduous Work

Arduous work is primarily physical work requiring a high level of strength or endurance. No specific physical action or exertional level denotes arduous work. While arduous work will usually entail physical demands that are classified as heavy, the work need not be described as heavy to be considered arduous. For example, work involving lighter objects may be arduous if it demands a great deal of stamina or activity such as repetitive bending and lifting at a very fast pace. Thus, there is room for judgment in deciding whether this criterion is met.

c. Unskilled Work

Unskilled work consists of simple duties which require little or no judgment and may be learned in a short period of time (see sections 404.1568(a)/416.968(a) of the regulations for further discussion). The judgment that work is unskilled must be based on facts which describe fully the nature and extent of vocational competences necessary to the performance of the job duties. Employment in semiskilled or skilled work generally would rule out the application of sections 404.1562/416.962 of the regulations. Isolated, brief, or remote periods of experience in semiskilled or skilled work, however, would not preclude the applicability of these regulations when such experience did not result in skills which enhance the person's present ability to do lighter work. Also, periods of semiskilled or skilled work may come within the provisions of these regulations if it is clear that the skill acquired is not readily transferable to lighter work and makes no meaningful contribution to the person's ability to do any work within his or her present functional capacity. (See examples in sections 404.1562/416.962.) When the transferability of the skill may be subject to question, the case should be evaluated under the provisions of sections 404.1568(d)/416.968(d).

*Marginal education*

Marginal education (sections 404.1564(b)(2)/416.964(b)(2) of the regulations) indicates that the person may not have attained a level of development in reasoning, arithmetic, and language which would suggest a vocational potential for more than unskilled work. Generally, an individual is considered to have a marginal education if he or she has no more than a sixth grade elementary school education. However, the level of formal education is not conclusive of a person's vocational competence. The responsibilities and tasks of past employment may demonstrate a higher level of competence than that indicated by his or her formal schooling. Conversely, a person may have attended school beyond the sixth grade, but other evidence may establish capability for reasoning, arithmetic, and language which does not, in fact, exceed the "marginal" criterion.

(Where an individual with this profile can perform arduous unskilled physical labor, see SSR 82-62 (PPS-80: A Disability Claimant's Capacity to Do Past Relevant Work, in General).)

2. *Special "No Work Experience" Cases*

An SSA policy decision of July 7, 1975, provided that, up to the point of advanced age, persons without work experience and those who have performed only unskilled work will be given the same

consideration. Recognizing that advanced age (55 or older) is a critical point for a vocational adjustment in that a person would have much difficulty in learning and doing activities not previously performed, SSA decided that a special policy should apply to disability claimants and beneficiaries who are of advanced age and have no recent and relevant work experience. Generally, individuals are considered as having no recent and relevant work experience when they have either performed no work activity within the 15-year period prior to the point at which the claim is being considered for adjudication, or the work activity performed within this 15-year period does not (on the basis of job content, recency, or duration) enhance present work capability. All such cases requiring vocational consideration must be decided on the basis of whether the individual's RFC, age, education, and lack of work experience are compatible with an adjustment to competitive remunerative work. Although the absence of relevant work experience represents an adverse vocational consideration, the adjudicative weight to be ascribed to this factor must be viewed in the context of the substantial numbers of unskilled jobs in the national economy which involve only simple job duties that can be learned in a short period of time and require no previous qualifying work experience.

Therefore, the absence of work experience can be evaluated only in the context of the range of work the individual can do functionally and of the other vocational factors of age, education and training. The following adjudicative guidelines provide a perspective for evaluating the interaction of the functional and vocational variables in cases involving individuals without work experience: Generally, the RFC to perform a wide range of light work represents sufficient capacity to engage in substantial work for the individual who is not of advanced age and can communicate, read, and write on a marginal educational level.

Generally, where an individual of advanced age with no relevant work experience has a limited education or less, a finding of an inability to make a vocational adjustment to substantial work will be made, provided his or her impairment(s) is severe, i.e., significantly limits his or her physical or mental capacity to perform basic work-related functions.

In the cases involving individuals of advanced age, the only medical issue is the existence of a severe medically determinable impairment. The only vocational issues are advanced age, limited education or less, and absence of relevant work experience. With affirmative findings of fact, the conclusion would generally follow that the claimant or beneficiary is under a disability. If all the criteria of this medical-vocational profile are not met, the case must be decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in Appendix 2.

**EFFECTIVE DATE:** The policy explained herein was effective on August 20, 1980, the date the regulations covering the basic policy in the subject area were effective (45 FR 55566).

**CROSS-REFERENCES:** Program Operations Manual System, Part 4 (Disability Insurance State Manual Procedures) sections DI 2041C, 2381, and 2387B.6.

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