

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2010-02 and should be submitted on or before February 19, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. 2010-1849 Filed 1-28-10; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2009-0081]

Drug Addiction and Alcoholism

AGENCY: Social Security Administration.

ACTION: Request for Comments.

SUMMARY: We are requesting your comments about our operating procedures for determining disability for persons whose drug addiction or alcoholism (DAA) may be a contributing factor material to our determination of disability.

DATES: To ensure that your comments are considered, we must receive them no later than March 30, 2010.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2009-0081 so that we may associate your comments with the correct document.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the Search

function to find docket number SSA-2009-0081. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966-2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 137 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Social Security Administration, Room 4624 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1020. 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 site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

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>.

Background

The law provides that a person shall not be considered disabled for purposes of the Social Security Disability Insurance or the Supplemental Security Income programs if his or her DAA is a contributing factor material to our determination of disability. Sections 223(d)(2)(C) and 1614(a)(3)(J) of the Social Security Act (Act) (42 U.S.C. 423(d)(2)(C) and 1382c(a)(3)(J)). If we find that a person is disabled and we have medical evidence of DAA, we must decide whether the DAA is material to our determination of disability. To do this, we evaluate which of the person's disabling physical and mental limitations would remain if he or she stopped using drugs or alcohol. We then determine whether any or all of these remaining limitations would be disabling. The DAA is material to our determination of disability when we find that the person's remaining limitations would not be disabling. 20 CFR 404.1535, 416.935.

To provide guidance on how we interpret the DAA provisions of the Act,

we issued instructions to our employees in an Emergency Message on August 30, 1996.¹ We later included some of those instructions in our Program Operations Manual System (POMS).² Since 1996 we have used these instructions and our regulations³ to determine whether a person's DAA is a contributing factor material to our determination of disability.

Request for Comments

We are asking for your comments on the procedures we follow when evaluating DAA. In particular, we would like your opinion about what, if any, changes you think we should make to our instructions. For example, do you have any suggestions about:

- What evidence we should consider to be medical evidence of DAA?
- How we should evaluate claims of people who have a combination of DAA and at least one other *physical* impairment?
- How we should evaluate the claims of people who have a combination of DAA and at least one other *mental* impairment?
- Whether we should include using cigarettes and other tobacco products in our instructions?
- How long a period of abstinence or nonuse we should consider to determine whether DAA is material to our determination of disability?
- Whether there is any special guidance we can provide for people with DAA who are homeless?

Please see the information under **ADDRESSES** earlier in this document for methods to give us your comments. We will not respond to your comments, but we will consider them when we decide whether and how we should update our current instructions.

Dated: January 22, 2010.

Michael J. Astrue,

Commissioner of Social Security.

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¹ You can read the Emergency Message here: <https://secure.ssa.gov/apps10/public/reference.nsf/1c87f767ab05e983852574da00547b35/4e8211854b65c36d852574da005a91e0?OpenDocument>.

² You can read the POMS instruction here: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0490070050>.

³ 20 CFR 404.1535 and 416.935.

¹¹ 17 CFR 200.30-3(a)(12).