

Social Security Administration

§ 404.1540

This treatment may include (but is not limited to)—

- (a) Medical examination and medical management;
- (b) Detoxification;
- (c) Medication management to include substitution therapy (e.g., methadone);
- (d) Psychiatric, psychological, psychosocial, vocational, or other substance abuse counseling in a residential or outpatient treatment setting; or
- (e) Relapse prevention.

[60 FR 8148, Feb. 10, 1995]

§ 404.1538 What we mean by approved institutions or facilities.

Institutions or facilities that we may approve include—

- (a) An institution or facility that furnishes medically recognized treatment for drug addiction or alcoholism in conformity with applicable Federal or State laws and regulations;
- (b) An institution or facility used by or licensed by an appropriate State agency which is authorized to refer persons for treatment of drug addiction or alcoholism;
- (c) State licensed or certified care providers;
- (d) Programs accredited by the Commission on Accreditation for Rehabilitation Facilities (CARF) and/or the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) for the treatment of drug addiction or alcoholism;
- (e) Medicare or Medicaid certified care providers; or
- (f) Nationally recognized self-help drug addiction or alcoholism recovery programs (e.g., Alcoholics Anonymous or Narcotics Anonymous) when participation in these programs is specifically prescribed by a treatment professional at an institution or facility described in paragraphs (a) through (e) of this section as part of an individual's treatment plan.

[60 FR 8148, Feb. 10, 1995]

§ 404.1539 How we consider whether treatment is available.

Our determination about whether treatment is available to you for your drug addiction or your alcoholism will depend upon—

- (a) The capacity of an approved institution or facility to admit you for appropriate treatment;
- (b) The location of the approved institution or facility, or the place where treatment, services or resources could be provided to you;
- (c) The availability and cost of transportation for you to the place of treatment;
- (d) Your general health, including your ability to travel and capacity to understand and follow the prescribed treatment;
- (e) Your particular condition and circumstances; and
- (f) The treatment that is prescribed for your drug addiction or alcoholism.

[60 FR 8148, Feb. 10, 1995]

§ 404.1540 Evaluating compliance with the treatment requirements.

(a) *General.* Generally, we will consider information from the treatment institution or facility to evaluate your compliance with your treatment plan. The treatment institution or facility will:

- (1) Monitor your attendance at and participation in treatment sessions;
- (2) Provide reports of the results of any clinical testing (such as, hematological or urinalysis studies for individuals with drug addiction and hematological studies and breath analysis for individuals with alcoholism) when such tests are likely to yield important information;
- (3) Provide observational reports from the treatment professionals familiar with your individual case (subject to verification and Federal confidentiality requirements); or
- (4) Provide their assessment or views on your noncompliance with treatment requirements.

(b) *Measuring progress.* Generally, we will consider information from the treatment institution or facility to evaluate your progress in completing your treatment plan. Examples of milestones for measuring your progress with the treatment which has been prescribed for your drug addiction or alcoholism may include (but are not limited to)—

- (1) Abstinence from drug or alcohol use (initial progress may include significant reduction in use);

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- (2) Consistent attendance at and participation in treatment sessions;
- (3) Improved social functioning and levels of gainful activity;
- (4) Participation in vocational rehabilitation activities; or
- (5) Avoidance of criminal activity.

[60 FR 8148, Feb. 10, 1995]

§ 404.1541 Establishment and use of referral and monitoring agencies.

We will contract with one or more agencies in each of the States, Puerto Rico and the District of Columbia to provide services to individuals whose disabilities are based on a determination that drug addiction or alcoholism is a contributing factor material to the determination of disability (as described in § 404.1535) and to submit information to us which we will use to make decisions about these individuals' benefits. These agencies will be known as referral and monitoring agencies. Their duties and responsibilities include (but are not limited to)—

- (a) Identifying appropriate treatment placements for individuals we refer to them;
- (b) Referring these individuals for treatment;
- (c) Monitoring the compliance and progress with the appropriate treatment of these individuals; and
- (d) Promptly reporting to us any individual's failure to comply with treatment requirements as well as failure to achieve progress through the treatment.

[60 FR 8148, Feb. 10, 1995]

RESIDUAL FUNCTIONAL CAPACITY

§ 404.1545 Your residual functional capacity.

(a) *General*—(1) *Residual functional capacity assessment.* Your impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what you can do in a work setting. Your residual functional capacity is the most you can still do despite your limitations. We will assess your residual functional capacity based on all the relevant evidence in your case record. (See § 404.1546.)

(2) *If you have more than one impairment.* We will consider all of your medi-

cally determinable impairments of which we are aware, including your medically determinable impairments that are not "severe," as explained in §§ 404.1520(c), 404.1521, and 404.1523, when we assess your residual functional capacity. (See paragraph (e) of this section.)

(3) *Evidence we use to assess your residual functional capacity.* We will assess your residual functional capacity based on all of the relevant medical and other evidence. In general, you are responsible for providing the evidence we will use to make a finding about your residual functional capacity. (See § 404.1512(c).) However, before we make a determination that you are not disabled, we are responsible for developing your complete medical history, including arranging for a consultative examination(s) if necessary, and making every reasonable effort to help you get medical reports from your own medical sources. (See §§ 404.1512(d) through (f).) We will consider any statements about what you can still do that have been provided by medical sources, whether or not they are based on formal medical examinations. (See § 404.1513.) We will also consider descriptions and observations of your limitations from your impairment(s), including limitations that result from your symptoms, such as pain, provided by you, your family, neighbors, friends, or other persons. (See paragraph (e) of this section and § 404.1529.)

(4) *What we will consider in assessing residual functional capacity.* When we assess your residual functional capacity, we will consider your ability to meet the physical, mental, sensory, and other requirements of work, as described in paragraphs (b), (c), and (d) of this section.

(5) *How we will use our residual functional capacity assessment.* (i) We will first use our residual functional capacity assessment at step four of the sequential evaluation process to decide if you can do your past relevant work. (See §§ 404.1520(f) and 404.1560(b).)

(ii) If we find that you cannot do your past relevant work (or you do not have any past relevant work), we will use the same assessment of your residual functional capacity at step five of the sequential evaluation process to