Social Security Administration

§ 416.946 Responsibility for assessing your residual functional capacity.

(a) Responsibility for assessing residual functional capacity at the State agency. When a State agency makes the disability determination, a State agency medical or psychological consultant(s) (or a medical or psychological expert (as defined in § 405.5 of this chapter) in claims adjudicated under the procedures in part 405 of this chapter) is responsible for assessing your residual functional capacity.

(b) Responsibility for assessing residual functional capacity in the disability hearings process. If your case involves a disability hearing under § 416.1414, a disability hearing officer is responsible for assessing your residual functional capacity. However, if the disability hearing officer’s reconsidered determination is changed under § 416.1418, the Associate Commissioner for the Office of Disability Determinations or his or her delegate is responsible for assessing your residual functional capacity.

(c) Responsibility for assessing residual functional capacity at the administrative law judge hearing or Appeals Council

level. If your case is at the administrative law judge hearing level under §416.1429 or at the Appeals Council review level under §416.1467, the administrative law judge or the administrative appeals judge at the Appeals Council (when the Appeals Council makes a decision) is responsible for assessing your residual functional capacity.

(d) Responsibility for assessing residual functional capacity in claims adjudicated under part 405 of this chapter. In claims adjudicated under the procedures in part 405 of this chapter at the Federal reviewing official, administrative law judge, and Decision Review Board levels of the administrative review process, the Federal reviewing official, administrative law judge, or the Decision Review Board is responsible for assessing your residual functional capacity.

§416.960 When we will consider your vocational background.

(a) General. If you are age 18 or older and applying for supplemental security income benefits based on disability, and we cannot decide whether you are disabled at one of the first three steps of the sequential evaluation process (see §416.920), we will consider your residual functional capacity together with your vocational background, as discussed in paragraphs (b) and (c) of this section.

(b) Past relevant work. We will first compare our assessment of your residual functional capacity with the physical and mental demands of your past relevant work.

1. Definition of past relevant work. Past relevant work is work that you have done within the past 15 years, that was substantial gainful activity, and that lasted long enough for you to learn to do it. (See §416.965(a).)

2. Determining whether you can do your past relevant work. We will ask you for information about work you have done in the past. We may also ask other people who know about your work. (See §416.965(b).) We may use the services of vocational experts or vocational specialists, or other resources, such as the "Dictionary of Occupational Titles" and its companion volumes and supplements, published by the Department of Labor, to obtain evidence we need to help us determine whether you can do your past relevant work, given your residual functional capacity. A vocational expert or specialist may offer relevant evidence within his or her expertise or knowledge concerning the physical and mental demands of a claimant’s past relevant work, either as the claimant actually performed it or as generally performed in the national economy. Such evidence may be helpful in supplementing or evaluating the accuracy of the claimant’s description of his past work. In addition, a vocational expert or specialist may offer expert opinion testimony in response to a hypothetical question about whether a person with the physical and mental limitations imposed by the claimant’s medical impairment(s) can meet the demands of the claimant’s previous work, either as the claimant actually performed it or as generally performed in the national economy.

3. If you can do your past relevant work. If we find that you have the residual functional capacity to do your past relevant work, we will determine that you can still do your past work and are not disabled. We will not consider your vocational factors of age, education, and work experience or whether your past relevant work exists in significant numbers in the national economy.

(c) Other work. (1) If we find that your residual functional capacity is not enough to enable you to do any of your past relevant work, we will use the same residual functional capacity assessment we used to decide if you could do your past relevant work when we decide if you can adjust to any other work. We will look at your ability to adjust to other work by considering your residual functional capacity and your vocational factors of age, education, and work experience. Any other work (jobs) that you can adjust to must exist in significant numbers in the national economy (either in the region where you live or in several regions in the country).

(2) In order to support a finding that you are not disabled at this fifth step...