(c) Disability determinations will be made by:
   (1) A State agency medical or psychological consultant and a State agency disability examiner;
   (2) A State agency disability examiner alone when there is no medical evidence to be evaluated (i.e., no medical evidence exists or we are unable, despite making every reasonable effort, to obtain any medical evidence that may exist) and the individual fails or refuses, without a good reason, to attend a consultative examination (see §416.918);
   (3) A State agency disability examiner alone if you are not a child (a person who has not attained age 18), and the claim is adjudicated under the quick disability determination process (see §416.919) or as a compassionate allowance (see §416.1002), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 12, 2013 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the FEDERAL REGISTER; or
   (4) A State agency disability hearing officer.
See §416.1016 for the definition of medical or psychological consultant and §416.1415 for the definition of disability hearing officer. The State agency disability examiner and disability hearing officer must be qualified to interpret and evaluate medical reports and other evidence relating to the claimant’s physical or mental impairments and as necessary to determine the capacities of the claimant to perform substantial gainful activity. See §416.972 for what we mean by substantial gainful activity.

(d) An initial determination by the State agency that an individual is not disabled, in any case where there is evidence which indicates the existence of a mental impairment, will be made only after every reasonable effort has been made to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment. (See §416.1016 for the qualifications we consider necessary for a psychologist to be a psychological consultant and §416.1017 for what we mean by reasonable effort.) If the services of qualified psychiatrists or psychologists cannot be obtained because of impediments at the State level, the Commissioner may contract directly for the services. In a case where there is evidence of mental and nonmental impairments and a qualified psychologist serves as a psychological consultant, the psychologist will evaluate only the mental impairment, and a physician will evaluate the nonmental impairment.

(e) In making a determination under title XVI with respect to the disability of a child to whom paragraph (d) of this section does not apply, we will make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the child’s impairment(s) evaluates the case of the child.

(f) The State agency will certify each determination of disability to us on forms we provide.

(g) The State agency will furnish us with all the evidence it considered in making its determination.

(h) The State agency will not be responsible for defending in court any determination made, or any procedure for making determinations, under these regulations.

§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
Social Security Administration

§ 416.1017 Reasonable efforts to obtain review by a qualified psychiatrist or psychologist.

(a) The State agency must determine if additional qualified psychiatrists and psychologists are needed to make the necessary reviews (see §416.1015(d)). Where it does not have sufficient resources to make the necessary reviews, the State agency must attempt to obtain the resources needed. If the State agency is unable to obtain additional psychiatrists and psychologists because of low salary rates or fee schedules it should attempt to raise the State agency’s levels of compensation to meet the prevailing rates for psychiatrists’ and psychologists’ services. If these efforts are unsuccessful, the State agency will seek assistance from us. We will assist the State agency as necessary. We will also monitor the State agency’s efforts and where the State agency is unable to obtain the necessary services, we will make every reasonable effort to provide the services using Federal resources.

(b) Federal resources may include the use of Federal contracts for the services of qualified psychiatrists and psychologists to review mental impairment cases. Where Federal resources are required to perform these reviews,