Social Security Administration

§416.1016

(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 §416.1019) 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.

§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.

(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

§416.1016 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

§416.1018 for what we mean by substantial gainful activity.)
must meet any appropriate qualifications for his or her specialty as explained in §416.913(a).

(c) Are there any limitations on what medical consultants who are not physicians can evaluate? Medical consultants who are not physicians are limited to evaluating the impairments for which they are qualified, as described in §416.913(a). Medical consultants who are not physicians also are limited as to when they may serve as a member of a team that makes a disability determination. For example, a speech-language pathologist who is a medical consultant in a State agency may be a member of a team that makes a disability determination in a claim only if a speech or language impairment is the only impairment in the claim or if there is a combination of a speech or language impairment with another impairment but the speech or language impairment alone would justify a finding of disability. In all other cases, a physician will be a member of the team that makes a disability determination, except in cases in which this function may be performed by a psychological consultant as discussed in paragraph (f) of this section and §416.1015(d).

(d) What is a psychological consultant? A psychological consultant is a psychologist who has the same responsibilities as a medical consultant explained in paragraph (a) of this section, but who can evaluate only mental impairments.

(e) What qualifications must a psychological consultant have? A psychological consultant used in cases where there is evidence of a mental impairment must be a qualified psychologist. For disability program purposes, a psychologist will not be considered qualified unless he or she:

1. Is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and
2. (i) Possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council on Post-Secondary Accreditation; or
   (ii) Is listed in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; and
3. Possesses 2 years of supervised clinical experience as a psychologist in health service, at least 1 year of which is post masters degree.

(f) Are there any limitations on what a psychological consultant can evaluate? Psychological consultants are limited to the evaluation of mental impairments, as explained in §416.1015(d). Psychological consultants also are limited as to when they may serve as a member of a team that makes a disability determination. They may do so only when a mental impairment is the only impairment in the claim or when there is a combination of a mental impairment with another impairment but the mental impairment alone would justify a finding of disability.

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