

for appeals and hearings and in issuing a decision. Respondents are individuals who appeal denial of Social Security disability income and Supplemental

Security Income (SSI) benefits, cessation of benefits, or who are requesting a hearing.

*Type of Request:* Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response: (minutes)	Estimated annual burden
SSA-3441 (Paper Form) .....	404,506	1	45	303,380
Electronic Disability Collection System (EDCS) .....	635,873	1	45	476,905
I3441 (Internet Form) .....	72,341	1	120	144,682
Totals .....	1,112,720	.....	.....	924,967

*Estimated Annual Burden:* 924,967 hours.

4. *Third Party Liability Information Statement—42 CFR 433.136–433.139—0960–0323.* Identification of sources of third party insurance liable for medical care or services for Medicaid beneficiaries, which could be used to reduce Medicaid costs, is required under 42 U.S.C. 1396a(a)(25). Medicaid State agencies are mandated under 42 CFR 433.136–.139 to obtain this information on Medicaid applications and redeterminations as a condition of Medicaid eligibility. States are permitted to enter into agreements with the Commissioner of Social Security to make Medicaid eligibility determinations for aged, blind and disabled beneficiaries in those States. Applications for and redeterminations of SSI eligibility in jurisdictions with

such agreements are also applications and redeterminations of Medicaid eligibility. Under these agreements, SSA obtains third party liability information using form SSA-8019 and provides that information to the State agencies which provide Medicaid under the terms of an approved plan in Title XIX of the Social Security Act. The Medicaid State agencies then use the information provided to attempt to bill any third parties liable for medical care, support or services for a beneficiary to guarantee that Medicaid remains the payer of last resort. The respondents are SSI applicants and beneficiaries.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 73,540.

*Frequency of Response:* 1.

*Average Burden per Response:* 5 minutes.

*Estimated Annual Burden:* 6,128 hours.

5. *Claimant Statement About Loan of Food or Shelter; Statement About Food or Shelter Provided to Another—20 CFR 416.1130–416.1148—0960–0529.* Forms SSA-5062 and SSA-L5063 are used to obtain statements about food and/or shelter provided to an SSI claimant or recipient. SSA uses this information to determine whether food and/or shelter are bona fide loans or should be counted as income for SSI purposes. This determination can affect eligibility for SSI and the amount of SSI benefits payable. The respondents are claimants/recipients for SSI benefits and individuals that provide loans of food and/or shelter to SSI claimants/recipients.

*Type of Request:* Extension of an OMB-approved information collection.

Form number	Number of respondents	Frequency of response	Average burden per response: (minutes)	Estimated annual burden
SSA-5062 .....	65,540	1	10	10,923
SSA-L5063 .....	65,540	1	10	10,923
Totals .....	131,080	.....	.....	21,846

*Estimated Annual Burden:* 21,846 hours.

Dated: May 18, 2006.

**Elizabeth A. Davidson,**

*Social Security Administration, Reports Clearance Officer.*

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**BILLING CODE 4191-02-P**

**SOCIAL SECURITY ADMINISTRATION**

[Social Security Ruling, SSR 06-01p]

**Titles II and XVI: Evaluating Cases Involving Tremolite Asbestos-Related Impairments**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security ruling.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 06-01p. This Ruling provides guidance on the types of impairments that may result from tremolite asbestos and how to evaluate disability claims under titles II and XVI of the Social Security Act based on these impairments.

**DATES:** *Effective Date:* May 25, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michelle Hungerman, Office of Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, 1-410-965-2289 or TTY

1-800-966-5609, for information about this notice.

**SUPPLEMENTARY INFORMATION:** Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to this Federal old-age, survivors, disability, supplemental security income, and special veterans benefits programs. Social Security Rulings may be based on determinations or decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General

Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are binding as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs 96.001 Social Security Disability Insurance; 96.006 Supplemental Security Income)

Dated: May 19, 2006.

**Martin Gerry,**

*Deputy Commissioner, Disability and Income Security Programs.*

### Policy Interpretation Ruling

#### *Titles II and XVI: Evaluating Cases Involving Tremolite Asbestos-Related Impairments*

**Purpose:** To provide guidance on the types of impairments that may result from tremolite asbestos exposure and how to evaluate disability claims under titles II and XVI of the Social Security Act (the Act) based on these impairments.<sup>1</sup>

**Citations (Authority):** Sections 216(i), 223(d), 223(f), 1614(a)(3), and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1505, 404.1508–404.1513, 404.1519–1523, 404.1525–404.1529, 404.1545, 404.1560–404/1569a, 404.1593–404.1594, and appendix; 1; and Regulations No. 16, subpart I, sections 416.902, 416.905, 416.906, 416.908–416.913, 416.919, 416.920, 416.921–416.929, 416.945, 416.960–416.969a, 416.993–416.994a.

#### Pertinent History

Tremolite is a type of asbestos sometimes found in the mineral vermiculite. People may be exposed to tremolite from vermiculite in mining

and in work-related activities involving the production of horticultural items, construction and insulation materials, brake pads, and other items. People may also be exposed to tremolite from living in an area where such mining or activities occur or from products made from vermiculite. Exposure to tremolite asbestos has occurred in the Libby, Montana area and may have occurred in other areas as well.

This ruling explains how we determine if impairments that may be caused by exposure to tremolite asbestos meet our definition of disability.<sup>2</sup> Sections 216(i) and 1614(a)(3) of the Act define “disability”<sup>3</sup> as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment (or combination of impairments) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.<sup>4</sup>

#### Policy Interpretation

**1. What Types of Impairments May Result from Exposure to Tremolite Asbestos?** When tremolite asbestos is inhaled, it penetrates the lung tissue by piercing the walls of the alveolar sacs and permanently lodges in the pleural lining. The tremolite accumulates in the pleural lining, and the affected lung and pleural areas become inflamed and scarred. This process may eventually result in chronic pulmonary insufficiency, such as asbestosis, disorders of pulmonary circulation, pleural plaques, pleural thickening, or pleural effusions. These impairments can interfere with the lungs’ ability to exchange oxygen and carbon dioxide and can cause difficulty breathing by interfering with the lungs’ ability to expand and contract normally. Decrease in blood flow to the lungs can result in prolonged right pulmonary artery hypertension, enlargement of the heart, and failure of the right ventricle (cor pulmonale).

Inhalation of tremolite asbestos can also cause several types of cancers, primarily malignant mesothelioma of the pleura and bronchogenic carcinoma of the lung.

Some factors that increase the chances of developing these impairments include increased length of exposure to tremolite asbestos, multiple routes of exposure to tremolite asbestos (for example occupational contact and household contact), and smoking.<sup>5</sup>

**2. How Do We Consider Impairments Related to Tremolite Asbestos Exposure in the Sequential Evaluation Process?** As with all impairments, we follow the five-step sequential evaluation process in 20 CFR 404.1520 and 416.920 when we determine whether an individual is disabled.

**Step 1.** We first determine whether the individual is working and whether the work is substantial gainful activity (SGA). If the individual is working and the work is SGA, we will find that the individual is not disabled, regardless of the individual’s medical condition, age, education, and work experience. If the individual is not engaging in SGA, we go on to the next step.

**Step 2.** If the individual is not working or the work is not SGA, we then establish whether the individual has a medically determinable impairment that is “severe.”

The presence of chronic pulmonary insufficiency is established based on the individual’s medical history, findings from a physical examination(s), and spirometric pulmonary function tests. Chest x-rays or other appropriate radiographic imaging techniques (for example, a computerized axial tomography (CAT) scan) are often performed to support the presence of the impairment. Measurement of diffusing capacity of the lungs for carbon monoxide (DLCO), pulse oximetry, or resting or exercise arterial blood gas studies (ABGS) may be performed to determine if the impairment has resulted in gas exchange abnormalities. In disorders of pulmonary circulation, a direct measurement of pulmonary artery pressure may have been obtained with right heart catheterization.

Malignant mesothelioma and bronchogenic carcinoma are demonstrated by tissue biopsy. When a biopsy is performed, we generally need a copy of both the operative note and pathology report. If we cannot get these

<sup>1</sup> For simplicity, we refer in this Ruling only to initial adult claims for disability benefits under titles II and XVI of the Act, and the steps of the sequential evaluation process we use to determine disability in those claims, 20 CFR 401.1520 and 416.920. We use a different sequential evaluation process for children who apply for benefits based on disability under title XVI of the Act. We describe that sequential evaluation process in 20 CFR 416.924. We also use separate sequential evaluation processes to determine whether an individual’s disability has ended when we conduct continuing disability reviews and when we determine that an individual was disabled only for a specific period. These rules are set out in 20 CFR 401.1594, 416.994, and 416.994a. The guidance in this Ruling applies to all of the appropriate steps in those regulations as well.

<sup>2</sup> The term “we” in this Social Security Ruling has the same meaning as in 20 CFR 404.1502 and 416.902. “We” refers to either the Social Security Administration or the State agency making the disability determination; that is, our adjudicators at all levels of the administrative review process and our quality reviewers.

<sup>3</sup> Except for statutory blindness.

<sup>4</sup> For individuals under age 18 claiming benefits under title XVI, disability will be established if the individual has a medically determinable physical or mental impairment (or combination of impairments) that results in “marked and severe functional limitations.” See section 1614(a)(3)(C) of the Act and 20 CFR 416.906. However, for simplicity, the following discussions refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI.

<sup>5</sup> With continuing scientific research, new medical information may emerge to further clarify the causes and nature of impairments related to tremolite asbestos exposure and to provide greater specificity for clinical and laboratory diagnostic techniques to document them.

documents, we will accept the summary of hospitalization(s) or other medical reports. This evidence should include details of the findings at surgery and, whenever appropriate, the pathological findings.

Once we determine that an impairment(s) exists, we evaluate its severity. As with any other medical condition, we will find that an impairment(s) caused by exposure to tremolite is a "severe" impairment(s) when, alone or in combination with another medically determinable physical or mental impairment(s), it significantly limits an individual's physical or mental ability to do basic work activities. When making a determination about whether an impairment(s) is severe, we will consider the effects of any symptoms (such as chest pain or complaints of shortness of breath on exertion) that could limit functioning.<sup>6</sup> We also recognize that limitations from impairments caused by exposure to tremolite may be more significant than would be expected based on objective findings alone. We will find that an impairment(s) is "not severe" only if it is a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the individual's ability to do basic work activities.

If the individual does not have a medically determinable impairment that is "severe," we will find that the individual is not disabled. If the individual does have a "severe" impairment, we will go on to the next step.

*Step 3.* If an individual has a severe impairment(s), we next consider whether the impairment meets or medically equals a listing in the Listing of Impairments contained in appendix 1, subpart P of 20 CFR part 404.

*Chronic Pulmonary Insufficiency:* We evaluate chronic pulmonary insufficiency under listing 3.02. The listing contains criteria based on spirometry, single breath DLCO, or ABGS. Chronic pulmonary insufficiency caused by exposure to tremolite asbestos may not have findings at rest that satisfy these criteria. If exercise ABGS cannot be obtained in these situations, we evaluate the impairment(s) at step 4, and if necessary, step 5 of the sequential evaluation process.

*Cancer:* Malignant mesothelioma of the pleura meets listing 13.15A. Bronchogenic carcinoma meets listing

13.14A if it is inoperable, unresectable, recurrent, or has metastasized to or beyond the hilar nodes.

If the individual has an impairment(s) that meets or medically equals the criteria of one of the foregoing listings or any other listing and meets the duration requirement, we will find that the individual is disabled. If not, we will continue with the sequential evaluation process.

*Residual Functional Capacity.* If we find that the impairment(s) does not meet or medically equal a listing, or if we do not have enough information for a determination or decision at Step 3, we will assess the individual's residual functional capacity (RFC).<sup>7</sup> We must consider all symptoms that result from the individual's impairments, including those symptoms that result from impairments that are not severe, when we evaluate how these symptoms affect the individual's functional capacity.<sup>8</sup>

In addition, if the individual's treating source<sup>9</sup> has provided an opinion about what the individual can still do despite his or her impairment, we will give this opinion controlling weight in determining the individual's RFC when the opinion is well-supported by objective medical evidence and is not inconsistent with the other substantial evidence in the case record.<sup>10</sup> Even if the treating source's opinion is not given "controlling weight" (for example it is not well-supported by objective medical evidence), the opinion is still entitled to deference and must be weighed using all of the factors in 20 CFR 404.1527 and 416.927. In many cases, a treating source's medical opinion will be entitled to the greatest weight and should be adopted even if it does not meet the test for "controlling weight."

*Steps 4 and 5.* After we determine the individual's RFC, we then proceed to the fourth and, if necessary, the fifth step of the sequential evaluation process.<sup>11</sup> If the individual can do past relevant work, we will determine that the individual is not disabled (step 4). If we determine that the individual's impairment(s) precludes the performance of past relevant work or if there was no past relevant work, a finding must be made about the

individual's ability to adjust to other work (step 5). The usual vocational considerations must be applied in determining the individual's ability to adjust to other work.<sup>12</sup>

*Effective Date:* This Ruling is effective on the date of its publication in the **Federal Register**.

Cross-References: SSR 85-28, "Titles II and XVI: Medical Impairments That Are Not Severe," SSR 96-2p, "Titles II and XVI: Giving Controlling Weight To Treating Source Medical Opinions," SSR 96-3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe," SSR 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements," and SSR 96-8p, "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims."

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## DEPARTMENT OF STATE

[Public Notice 5420]

### United States Climate Change Science Program

The United States Climate Change Science Program requests expert review of the Working Group II contribution ("Climate Change 2007: Impacts, Adaptation, and Vulnerability") to the Intergovernmental Panel on Climate Change Fourth Assessment Report.

The Intergovernmental Panel on Climate Change (IPCC) was established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information relevant for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation. The First Assessment Report was completed in 1990, the Second Assessment Report in 1995, and the Third Assessment Report in 2001. Three working group volumes and a synthesis report comprise the Fourth Assessment Report, with all to be finalized in 2007. Working Group I assesses the scientific

<sup>7</sup> See 20 CFR 404.1520(e) and 416.920(e).

<sup>8</sup> See SSR 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements" and SSR 96-8p, "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims."

<sup>9</sup> See 20 CFR 404.1502 and 416.902.

<sup>10</sup> See 20 CFR 404.1527 and 416.927; SSR 96-2p, "Titles II and XVI: Giving Controlling Weight To Treating Source Medical Opinions."

<sup>11</sup> See 404.1545 and 416.945.

<sup>12</sup> See 20 CFR 404.1560-404.1569a and 416.960-416.969a.

<sup>6</sup> See SSR 85-28, "Titles II and XVI: Medical Impairments That Are Not Severe" and SSR 96-3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment Is Severe."