



June 11, 2003

Commissioner  
Social Security Administration  
PO Box 17703  
Baltimore, MD 21235-7703

These comments are submitted in response to the notice of March 17, 2003 regarding SSA's intention to revise the criteria for evaluating mental impairments under federal disability programs.

**I. Introduction to Mental disorders Listings: Section 12.00**

This section provides detailed guidance for all disability adjudicators and is important in the decision making process for individuals with mental impairments. The section should be expanded to include SSA policy from other sources as well as being updated through several policy changes. The following are specific suggestions.

**1. Evidence issues**

A. The importance of recognizing evidence from all medical sources.

SSA should provide clear guidance regarding the importance of evidence from all health care professionals in assessing the limitations imposed by mental impairments. Evidence provided by non-physician licensed health care professionals should carry as much weight as that provided by physicians. These professionals include many of the primary sources of health care treatment for individuals with mental impairments, e.g., nurse practitioners and physicians' assistants, therapists, social workers and educational personnel. Evidence from other sources should not be treated any differently when provided by licensed health care personnel than when given by a psychiatrist or psychologist.

In community mental health a consumer may see the psychiatrist rarely and then only to evaluate medications. Those most familiar with the case are the therapist and social workers that see the consumer on a daily or weekly basis. SSA should treat information from these professionals as medical evidence when it comes from a licensed clinic or is part of a medically supervised treatment plan. Otherwise low-income individuals are treated unfairly because they cannot afford services in a setting where there is more available physician time.

## **2. Consideration of drug use as a symptom of another mental impairment**

Many, if not the majority of persons diagnosed with mental health issues also have substance abuse problems. SSA rules should provide clear guidance that the fact of substance abuse is not grounds for denying a claim. SSA should clarify that drug use may be a symptom of another mental impairment and that a determination is required as to whether drug addiction or alcoholism is a contributing factor to the determination of disability.

## **3. Effects of Medication**

For many people with mental illness, medication will treat the overt signs and symptoms, but not the resulting functional deficits. Thus persons on medications may no longer meet the A criteria regarding signs and symptoms, but meet the B criteria regarding function. SSA should clarify that persons meeting the B criteria and having a diagnosis in the A criteria are qualified, just as do others whose overt symptoms are not controlled by medication.

## **II. Supported Work**

Supported work should not be identified as the ability to independently engage in competitive employment or as lack of evidence of a disability. The need for a supported work setting is evidence of disability and the need for services to compensate for that disability.

### **III. Corrected Conditions**

It is possible for some people with mental impairments to work while receiving medications that reduce their symptoms. It is most often that eligibility for SSI and Medicaid make it possible for them to obtain the needed medications. Loss of SSI often means the loss of the drugs that may make the person employable. SSA should ensure that medical care, including free or very affordable prescription drugs are available to an individual after leaving SSI or SSDI for as long as needed to ensure the person can continue to remain independent of cash benefits.

### **IV. Administrative Process**

The SSDI and SSI application processes are lengthy and complex. Many people with mental disabilities have difficulty applying for benefits unless provided with assistance. Many have difficulty attending appointments or hearings. If denied, many have difficulty in filing appeals. This results in the most significantly impaired being the least able to file an appeal for denied benefits. SSA should consider:

- Offering outreach to low-income persons with mental impairments, particularly the homeless or children.
- Accept more applications before claimants leave public institutions such as hospitals, jails, or prison
- Offer mentally ill claimants additional assistance in completing forms and flexibility in appointments for CE's or ALJ hearings.
- Expand the use of presumptive eligibility for persons with a well-documented history of serious and persistent mental illness.

## **V. Third Party Evidence**

Some individuals with mental impairments underestimate or under-report the impact of their illness. When this occurs input from persons who live with or interact with the person routinely is essential. We recommend that SSA make every effort to obtain third party descriptions of functioning whenever a claimant is unable or unwilling to describe limitations in order to supplement any self-reporting by a claimant.

Allegheny County Department of Human Services, Office of Behavioral Health is most appreciative of this opportunity to provide comment on behalf of our citizens with mental impairments. We look forward to seeing final revisions of the regulations.

Sincerely,



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