

which explains that at step 5 we consider whether you are able to “adjust to” any other work.

Sections 404.1561 and 416.961—Your Ability To Do Work Depends Upon Your Residual Functional Capacity

We are removing these sections because their provisions are incorporated into other new and existing rules. We are making additional revisions to the language that appeared in proposed rules in §§ 404.1520(g) and 416.920(g), 404.1545(a)(5)(ii) and 416.945(a)(5)(ii), and 404.1560(c)(1) and 416.960(c)(1) to better reflect the provisions of deleted §§ 404.1561 and 416.961.

Sections 404.1562 and 416.962—If You Have Done Only Arduous Unskilled Physical Labor

We are revising and updating the headings of these sections in order to reflect changes we are making to their content.

First Medical-Vocational Profile

Previously, §§ 404.1562 and 416.962 described one special medical-vocational profile. Under that profile, if you have only a marginal education and work experience of 35 years or more during which you did arduous unskilled labor, and you are not working and are no longer able to do this kind of work because of a severe impairment, we will find that you are disabled. We consider this special medical-vocational profile at step 5 of the sequential evaluation process, before we consider the grid rules. We do this because we have decided that, if you match this profile, you do not have the ability to adjust to other work (*i.e.*, you are disabled)—regardless of your age. If you meet this profile, and are age 60 or over, we would usually find you disabled using our grid rules. However, if you are under age 60, you might not qualify without this special rule.

Although we have changed the language somewhat over the years, this medical-vocational profile has been in our regulations since 1960 (when it was at § 404.1502(c)). However, the language in previous §§ 404.1562 and 416.962 needed to be updated to be consistent with our current rules and policies. For example, the last sentence of the paragraph before the example spoke about the ability to do other work “on a full-time or reasonably regular part-time basis.” However, in SSR 96–8p, we explain that at step 5 we consider only full-time work when we consider other work you are able to do. (See 61 FR 34474, 34475 (July 2, 1996).) Other provisions in the medical-vocational

profile have been made obsolete or been superseded by more recent regulations, such as our rules on doing substantial gainful activity at step 1 of the sequential evaluation process, and our rules on transferability of skills in §§ 404.1568(d)(4) and 416.968(d)(4).

We therefore are deleting the second and third sentences of the previous sections and revising the example. These changes only make the rule more consistent with our current policies and will not affect anyone whom we would have found disabled under the previous rule. We are also changing the occupation title that appeared in the proposed example to paragraph (a) from “miner” to “miner’s helper” because there are some highly skilled mining occupations that would not meet the qualifications for this medical-vocational profile.

We are designating all the language discussing this first medical-vocational profile as paragraph (a) of revised §§ 404.1562 and 416.962 in order to distinguish it from the second medical-vocational profile in new paragraph (b), discussed below. We also are making a conforming change to the third sentence of section 203.00(b) in appendix 2 to subpart P of part 404, to reflect these changes.

Second Medical-Vocational Profile

We are adding to §§ 404.1562 and 416.962 a second special medical-vocational profile that we have been using since 1975, but that has not been in our regulations. We are designating the language discussing the second medical-vocational profile as paragraph (b). Under this profile, we will find you disabled if you:

- Are of “advanced age” (*i.e.*, are at least 55 years old);
- Have a “limited” education or less (*i.e.*, generally, an 11th grade education or less—see §§ 404.1564(b)(3) and 416.964(b)(3));
- Have no past relevant work (*i.e.*, either no work experience or no work experience that satisfies our definition of “past relevant work”); and
- Have a “severe,” medically determinable impairment(s).

If you have these characteristics, we would usually find you disabled using our grid rules. However, if you have solely “nonexertional” limitations (see § 200.00(e) of appendix 2 to subpart p of part 404), you might not qualify without this special profile.

The original instruction for this profile dates back to a policy decision of July 7, 1975. In 1982, we incorporated this profile into SSR 82–63, “Titles II and XVI: Medical-Vocational Profiles Showing an Inability To Make an

Adjustment to Other Work” (see Social Security Rulings, Cumulative Edition, 1982, page 205). Therefore, the new rule incorporates our longstanding policy interpretation into our regulations.

We also are clarifying in paragraph (b) and other related rules that, if you meet the second medical-vocational profile, we do not have to assess RFC. This is because, once we have determined that you have a “severe” impairment(s) and that you meet the other criteria in the profile, we will find you disabled, and we will not need an RFC assessment. We recognize that, in most cases, our normal sequential evaluation process would require us to do an RFC assessment before we determine that you have no past relevant work. However, because you must only have a “severe” impairment(s) under this profile, and your advanced age, limited education, and lack of past relevant work should be readily apparent from the case record, an RFC assessment is unnecessary.

Sections 404.1563 and 416.963—Your Age as a Vocational Factor

We are making only editorial changes to the second sentence of paragraph (a).

Sections 404.1569a and 416.969a—Exertional and Nonexertional Limitations

We are deleting the seventh sentence of paragraph (a), “General,” and adding three new sentences in its place. These changes are consistent with other changes discussed above.

We are making a minor change to proposed §§ 404.1569a and 416.969a at the end of the third new sentence to refer to, “any other work which exists in the national economy.” We believe that this revision, which retains more of the language from these sections prior to these amendments, helps clarify that “other work”, as distinguished from a claimant’s previous work, must exist in significant numbers in the national economy.

Sections 404.1594—How We Will Determine Whether Your Disability Continues or Ends, and 416.994—How We Will Determine Whether Your Disability Continues or Ends, Disabled Adults

We are revising the first sentence of § 404.1594(f)(7) and § 416.994(b)(5)(vi), which contain essentially the same language, in order to update the cross-references. This is necessary due to the changes we are making to §§ 404.1560 and 416.960 and the removal of §§ 404.1561 and 416.961.