

claims we have updated SSR 99–3p. We have deleted the section that was titled “Special Rule for Determining Disability for Individuals Age 65 or Older Who Can Perform Medium Work But Who Are Illiterate in English or Unable to Communicate in English.” We did this because those instructions actually applied to all individuals aged 60 or older—not just to individuals aged 65 and older. In addition, we are revising our regulations to make this clear. (See Notice of Proposed Rulemaking; Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Clarification of the Education and Previous Work Experience Categories in the Medical-Vocational Rules). We have also deleted obsolete information and made some minor revisions to the language of SSR 99–3p.

EFFECTIVE DATE: This ruling is effective on the date of its publication in the **Federal Register** (November 10, 2003).

FOR FURTHER INFORMATION CONTACT: Martin Sussman, Regulations Officer, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1767.

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 the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case 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 to be relied upon 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If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.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; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.006 Supplemental Security Income)

Dated: November 4, 2003.

Jo Anne B. Barnhart,
Commissioner of Social Security.

Policy Interpretation Ruling

This Ruling supersedes SSR 99–3p, Title XVI: Evaluation of Disability and Blindness in Initial Claims for Individuals Age 65 or Older (64 FR 33337, June 22, 1999).

Purpose: To clarify SSA’s standards and procedures for the adjudication of titles II and XVI of the Social Security Act (the Act) disability and blindness claims for individuals aged 65 or older. In particular, this Ruling explains that:

- In general, the regulations and procedures for determining disability for adults who are under age 65 are used when determining whether an individual aged 65 or older is disabled.
- Adjudicators are required to consider any impairment(s) the individual has, including those that are often found in older individuals.
- If an individual aged 72 or older has a medically determinable impairment, that impairment will be considered to be “severe.”
- If the individual’s impairment(s) prevents the performance of his or her past relevant work (PRW), or if the individual does not have PRW, the adjudicator must consider two special medical-vocational profiles showing an inability to make an adjustment to other work before referring to appendix 2 to subpart P of 20 CFR part 404.
- Generally, adjudicators should use the rules for individuals aged 60–64 when determining whether an individual aged 65 or older can adjust to other work.
- Some individuals aged 65 or older may not understand, or be able to comply with, our requests to submit evidence or attend a consultative examination (CE). Therefore, adjudicators must make special efforts in situations in which it appears that an individual aged 65 or older may not be cooperating.

Citations: Section 5301 of Public Law (Pub. L.) 105–33, sections 402 and 431 of Pub. L. 104–193, as amended, sections 216(l), 223(a)(1), 223(d), 1614(a), 1616, 1619(b) and 1621(f)(1) of the Act, as amended; 20 CFR part 404, subpart P, appendices 1 and 2, §§ 404.1501–1599, and 20 CFR part 416, subpart I, §§ 416.901–416.923, 416.925–416.926, 416.927–416.986, 416.988–416.994, and 416.995–416.998.

Background: Section 216(l) of the Act phases in a gradual increase in the full retirement age from age 65 to age 67. These changes first affect individuals who were born in 1938; that is, who turn age 65 in 2003. By 2027, the

incremental increases will be complete, and a full retirement age of 67 will be applicable to all individuals who were born in 1960 or later. These provisions do not change the age at which an individual can take early retirement at a reduced benefit amount, which remains at age 62. Under title II, an individual can establish entitlement to benefits based on disability or blindness until the month in which he or she attains full retirement age. Therefore, as a result of the increases in the full retirement age, we will be processing some disability claims under title II of the Act for individuals who are aged 65 or older.

On August 5, 1997, Pub. L. 105–33, the Balanced Budget Act of 1997, amended Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, and added additional alien eligibility criteria. Under the new criteria, “qualified” aliens who were lawfully residing in the United States on August 22, 1996, and who are disabled or blind as defined in section 1614(a) of the Act are eligible for benefits under title XVI provided all other eligibility requirements are met. Individuals can establish eligibility based on disability or blindness at any age, even on or after attainment of age 65.

In addition to qualified aliens, determinations of disability under title XVI also may be needed for other individuals aged 65 or older to determine:

- State supplements in some States (section 1616 of the Act);
- Whether the work incentive provisions of section 1619(b) of the Act are applicable; or
- Appropriate deeming of income and resources (section 1621(f)(1) of the Act; 20 CFR 416.1160, 416.1161, 416.1166a, and 416.1204).

Ruling: Evaluation Issues. In general, the regulations and procedures for determining disability for adults who are under age 65 are used when determining whether an individual aged 65 or older is disabled, except as provided later in this Ruling.

To determine if an adult is disabled as defined in the Act, adjudicators generally use the 5-step sequential evaluation process set out in 20 CFR 404.1520 and 416.920.

Step 1—Is the Individual Working? If the individual is working and the work is substantial gainful activity (see 20 CFR 404.1571–404.1576 and 416.971–416.976), we will find that the individual is not disabled regardless of his or her medical condition, age, education, or work experience.