

that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change, as amended, were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>10</sup> of the Act and subparagraph (f)(3) of Securities Exchange Act Rule 19b-4<sup>11</sup> thereunder as one concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.<sup>12</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2005-36 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PCX-2005-36. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2005-36 and should be submitted on or before May 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-1986 Filed 4-26-05; 8:45 am]

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**SOCIAL SECURITY ADMINISTRATION**

**Social Security Ruling, SSR 05-03p.; Title XVI: Determining Continuing Disability at Step 2 of the Medical Improvement Review Standard Sequential Evaluation Process for Children Under Age 18—Functional Equivalence**

**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 05-03p. This Ruling explains our policies for determining continuing disability at step 2 of the medical improvement review standard for children under 20 CFR 416.994a(b)(2).

**EFFECTIVE DATE:** April 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Judy Hicks, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, 4352 Annex Building, Baltimore, MD 21235-6401,

(410) 965-9119. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

**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, Program No. 96.006 Supplemental Security Income.)

Dated: April 21, 2005.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

**Policy Interpretation Ruling**

Title XVI: Determining Continuing Disability at Step 2 of the Medical Improvement Review Standard Sequential Evaluation Process for Children Under Age 18—Functional Equivalence.

*Purpose:* To explain our policies for determining continuing disability at step 2 of the medical improvement review standard (MIRS) sequential evaluation process for children under 20 CFR 416.994a(b)(2) and to explain how we apply the functional equivalence rule at step 2.

*Citations (Authority):* Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act; Regulations No. 16, subpart I, sections 416.924, 416.925, 416.926, 416.926a, and 416.994a.

*Introduction:* When we conduct a continuing disability review, we use a three-step MIRS sequential evaluation process, outlined in 20 CFR 416.994a(b).

<sup>10</sup> 5 U.S.C. § 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on April 18, 2005, when Amendment No. 1 was filed. See, supra, note 3.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

1. At step 1, we determine whether there has been medical improvement in the impairment(s) that was present at the time of the most recent favorable determination or decision. (20 CFR 416.994a(b)(1)). We refer to the most recent favorable determination or decision as the “comparison point decision” (CPD), and we refer to the impairment(s) that was present at the time of the most recent favorable determination or decision as the “CPD impairment(s).” If there has been no medical improvement in the CPD impairment(s), we find that the child’s disability continues. If there has been medical improvement, we proceed to step 2.<sup>1</sup>

2. At step 2, we determine whether the CPD impairment(s) still meets or medically or functionally equals “the severity of the listed impairment” that it met or equaled at the time of the CPD. (20 CFR 416.994a(b)(2)). If the CPD impairment(s) still meets or medically or functionally equals the severity of the listing we considered at the CPD, we find that the child is still disabled. As long as we determine that the CPD impairment(s) currently meets or medically or functionally equals the listing we considered before, we do not have to make the same finding we made at the CPD. For example, if we found at the CPD that the child’s impairment(s) met a listing, and now it no longer meets that listing but it medically equals that listing, we find that the child’s disability continues. Likewise, if we found that the child’s impairment(s) functionally equaled a listing, and now it meets that listing, we find that the child’s disability continues. If the CPD impairment(s) does not still meet or equal the severity of that listed impairment, we proceed to step 3.

3. At step 3, we determine whether the child is currently disabled, considering all current impairments. (20 CFR 416.994a(b)(3)). We determine if the child’s current impairment(s) is severe, as defined in 20 CFR 416.924(c). If the impairment(s) is not severe, we find that the child’s disability has ended. If the impairment(s) is severe, we consider whether it meets or medically equals a listing. (20 CFR 416.924(d), 416.925, 416.926). If it does, we find that the child’s disability continues. If not, we consider whether it functionally equals the listings. (20 CFR 416.926a). If it does, we find that the child’s

disability continues. If not, we find that the child’s disability has ended.

On September 11, 2000, we published final rules (the “2001 rules”) for evaluating disability in children under the Supplemental Security Income program. These rules became effective on January 2, 2001.<sup>2</sup> In section 416.926a of the 2001 rules, (20 CFR 416.926a), we clarified and simplified our prior rules for evaluating functional equivalence<sup>3</sup> in a number of ways. Under the functional equivalence policies that we applied prior to January 2, 2001, we required a comparison of the child’s impairment(s) to a specific listing.<sup>4</sup> One way in which we clarified and simplified functional equivalence under the 2001 rules was to no longer refer to specific listed impairments. Instead, we determine whether a child’s impairment functionally equals the listings. To functionally equal the listings, a child’s impairment(s) must cause “marked” limitations in two domains of functioning, or “extreme” limitation in one such domain, as described in 20 CFR 416.926a.

Therefore, findings of functional equivalence made on or after January 2, 2001, are not based on a specific listing.

Because our current rules about step 2 of the MIRS sequential evaluation process refer only to the specific listed impairment(s) that we considered at the CPD, we are issuing this ruling to explain how we apply the functional equivalence rules at step 2. We also explain how we apply step 2 when the CPD was based on functional equivalence to the listings.

*Policy Interpretation:* When we evaluate functional equivalence at step 2 of the MIRS sequential evaluation process for children in 20 CFR 416.994a(b), we use the current rules for evaluating functional equivalence.

How we apply step 2 of the MIRS sequential evaluation process for children depends on the date of and basis for the CPD. A chart that summarizes our policies on applying step 2 follows the text.

*a. If the CPD was made before January 2, 2001.*

If the CPD was made before January 2, 2001, it was based either on a finding that the child’s impairment(s) met or medically equaled a specific listing, or functionally equaled a specific listing under the rules for functional equivalence that were in effect at the time of the CPD.

When we determine whether a child’s disability continues at step 2, we first consider whether the CPD impairment(s) now either meets or medically equals the same listing that it met, medically equaled, or functionally equaled at the CPD, as that listing was written at that time. If the CPD impairment(s) now meets or medically equals the severity of that listed impairment as it was written at that time, we find that the child is still disabled.

If the CPD impairment(s) does not now meet or medically equal the CPD listing, we consider whether the CPD impairment(s) now functionally equals the listings under our current rules in 20 CFR 416.926a. If it does, we find that the child is still disabled. If it does not, we proceed to step 3.

*b. If the CPD was made on or after January 2, 2001.*

If the CPD was made on or after January 2, 2001, it was based either on a finding that the child’s impairment(s) met or medically equaled a listing, or functionally equaled the listings under the current rules in 20 CFR 416.926a.

(1) If the CPD impairment(s) met or medically equaled a listing:

If our determination or decision at the time of the CPD was that the child’s impairment(s) met or medically equaled a listing, we consider whether the CPD impairment(s) now either meets or medically equals that same listing, as it was written at that time. If it does, we find that the child is still disabled.

If the CPD impairment(s) does not now meet or medically equal the CPD listing, we consider whether the CPD impairment(s) now functionally equals the listings under our current rules in 20 CFR 416.926a. If it does, we find that the child is still disabled. If it does not, we proceed to step 3.

(2) If the CPD impairment(s) functionally equaled the listings:

When we determine whether a child’s disability continues at step 2 and the CPD was based on functional equivalence to the listings, we consider only whether the CPD impairment(s) now functionally equals the listings. We do not consider whether the impairment(s) now meets or medically equals the CPD listing, because there is no specific CPD listing. If that impairment(s) now functionally equals the listings under our current rules in 20 CFR 416.926a, we find that the child is still disabled. If it does not, we proceed to step 3.

*Chart:* This chart summarizes the explanations above. Follow a. or b. as appropriate.

*a. If the CPD was made before January 2, 2001:*

<sup>1</sup> At each step of the process certain “exceptions to medical improvement” may apply, under which disability can be found to have ended even though medical improvement has not occurred. (20 CFR 416.994a(e)–(f)). Although we apply the exceptions when appropriate, further discussion of the exceptions is unnecessary in this Ruling.

<sup>2</sup> 65 FR 54747–54790 (2000).

<sup>3</sup> We have included the policy of functional equivalence in our childhood disability rules since 1991. See 56 FR 5534, 5543, 5561–5562 (1991).

<sup>4</sup> 20 CFR 416.926a(b) (1997); 20 CFR 416.926a(b) (1993); 20 CFR 416.926a(b) (1991).

Does CPD impairment(s) now either meet or medically equal the CPD listing? → YES → Disability Continues<sup>5</sup>  
 ↓  
 NO  
 ↓  
 Does CPD impairment(s) now functionally equal the listings? → YES → Disability Continues  
 ↓  
 NO  
 ↓  
 Proceed to Step 3

*b. If the CPD was made on or after January 2, 2001, follow (1) or (2) as appropriate:*

(1) CPD impairment(s) met or medically equaled a listing:

Does CPD impairment(s) now either meet or medically equal the CPD listing? → YES → Disability Continues  
 ↓  
 NO  
 ↓  
 Does CPD impairment(s) now functionally equal the listings? → YES → Disability Continues  
 ↓  
 NO  
 ↓  
 Proceed to Step 3

(2) CPD impairment(s) functionally equaled the listings:

Does CPD impairment(s) now functionally equal the listings? → YES → Disability Continues  
 ↓  
 NO  
 ↓

Proceed to Step 3.

<sup>5</sup> The conclusion that disability continues here and elsewhere on this chart is subject to any applicable exceptions to the MIRS standard. See footnote 1 above.

**Effective Date:** This SSR is effective upon publication in the **Federal Register**.

**Cross-References:** Program Operations Manual System, sections DI 28005.020, 28005.025, and 28005.030.

[FR Doc. 05–8390 Filed 4–26–05; 8:45 am]

**BILLING CODE 4191–02–P**

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**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

[Docket No. OST 2005–21067]

**Notice of Request for Extension of a Previously Approved Collection**

**AGENCY:** Office of the Secretary.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation’s (DOT) intention to request extension of a previously approved information collection.

**DATES:** Comments on this notice must be received June 27, 2005.

**ADDRESSES:** You may submit comments identified by DOT–DMS Docket Number

OST–2005–21067 by any of the following methods.

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change

to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401, on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m. Monday through Friday, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bernice C. Gray or John H. Kiser, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2435.

**SUPPLEMENTARY INFORMATION:**

*Title:* Tariffs.

*OMB Control Number:* 2106–0009.

*Expiration Date:* September 30, 2002.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* Chapter 415 of Title 49 of the United States Code requires that every air carrier and foreign air carrier file with the Department of Transportation (DOT), publish and keep open (*i.e.*, post) for public inspection