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December 14, 2015

Office of Regulations and Reports Clearance
Social Security Administration
107 Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235-6401

Submitted on www.regulations.gov

Re: Comments on SSA's Advance Notice of Proposed Rulemaking on Vocational Factors of Age, Education, and Work Experience in the Adult Disability Determination Process, 80 Fed. Reg. 55050 (Step. 14, 2015)

Dear Social Security Administration:

These comments are submitted by the Empire Justice Center. The Empire Justice Center is a statewide not-for-profit law firm. Our mission is to protect and strengthen the legal rights of poor, disabled, or disenfranchised people in New York through systems change advocacy, training and support to other advocates and organizations, and high quality direct civil representation. As part of our mission, we represent a number of low-income disability claimants before the Social Security Administration (SSA). We work with advocates throughout New York State who provide similar services, in particular advocates who are funded by the State of New York under the Disability Advocacy Program (DAP) to represent low-income claimants who have been denied disability benefits.

We appreciate the opportunity to comment on the advance notice of proposed rulemaking issued by the SSA on September 14, 2015, regarding the consideration of the vocational factors of age, education, and work experience in the adult disability determination process. We believe these factors continue to be highly relevant to disability determinations and urge the SSA to proceed with great caution in proposing any changes to the current "Medical-Vocational Guidelines" and other policies.

We endorse the extensive and thorough comments submitted by the National Organization of Social Security Claimants Representatives (NOSSCR) and the Consortium for Citizens with Disabilities (CDC) Social Security Task Force. Like NOSSCR and the CDC, we believe that any changes made to the guidelines should be evidence based, particularly evidence specific to people with severe impairments, as opposed to the United States population generally.

Age: Evidence cited by NOSSCR and the CDC confirm that age is a predictive factor in determining whether an individual is able to work or adjust to different work. But it also underscores that general changes in life expectancy in age groups ineligible for SSDI should not be a basis to raise the age categories currently used. Disparities in life expectancies based on gender, race, education, and class should be taken into account. We concur that the current age categories in the Medical-Vocational Guidelines are appropriate and should be continued.

Education and Work Experience: We also concur that SSA should continue to consider education and work experience in the disability determination process. As pointed out by NOSSCR and the CDC, these factors are critical to conducting an individualized determination of each claim.

Literacy: Consideration of literacy should be a factor in disability determinations, especially in light of the substantial growth of jobs demanding literacy above the capabilities of a significant percent of the population. We represent numerous clients whose vocational prospects are severely hampered by their lack of literacy combined with their other physical and mental impairments.

Skill Levels: We concur with NOSSCR and the CDC that past relevant work experience is an important indicator of a claimant's ability to perform and adjust to different jobs. Many of our clients have little or no work experience, or at best unskilled past work. This is significant vocational adversity that the SSA should continue to consider.

Other factors: We join NOSSCR and the CDC in cautioning the SSA to avoid moving to a rating system that does not provide for an individualized assessment of each claimant. An individualized assessment is particularly crucial in the many claims we see involving significant non-exertional limitations related to mental impairments.

Thank you for consideration of our comments.

Sincerely,

Catherine M. Callery.
Louise M. Tarantino
Disability Advocacy Program Coordinators