

DAP BASICS:

The Medical-Vocational Guidelines

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THE GRID RULES

- The Medical-Vocational Guidelines – or “the Grids” or “Grid rules” - are a series of tables for each level of exertional activity (sedentary, light, medium, heavy)
 - https://www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm
- The Rules were designed to help SSA meet its burden at Step five of the Sequential Evaluation to establish there is other work in the economy a claimant can perform considering all vocational factors
- The use of the Rules – or Grids – was upheld in *Heckler v. Campbell*, 461 U.S. 458, 103 S.Ct. 1952 (1983)

VOCATIONAL FACTORS

- Apply grid rule in the appropriate exertional level (RFC) table consistent with the claimant's age, education, and past work experience (e.g., skills)
- Relevant criteria:
 - Residual Functional Capacity (RFC)
 - Age
 - Education
 - Skills developed in past work experience

RESIDUAL FUNCTIONAL CAPACITY

- Residual Functional Capacity is what the claimant can still do (physically and/or mentally) on a sustained daily basis despite his or her impairment-related limitations.
- To assess an RFC, compare the physical and/or mental demands of a claimant's PRW with his/her current physical and/or mental limitations
- RFC must represent the ability to work on a regular and continuing basis, which means 8 hours a day, 5 days a week or some equivalent schedule
 - *See SSR 96-8p*

RFC/EXERTIONAL LEVELS

- Exertional levels - 20 C.F.R. §§ 404.1567; 416.967
 - Sedentary: sitting 6 hours out of an 8-hr day; standing and/or walking at least 2 hrs/day; lifting up to 10 pounds. Lowest level of work recognized by SSA
 - Light: standing 6 hours out of an 8-hour day; lifting up to 20 pounds; using foot pedals, etc.
 - Medium: standing all day; lifting up to 50 pounds
 - Heavy: standing all day; lifting up to 100 pounds
 - Very heavy: lifting over 100 pounds

AGE

- 20 C.F.R. §§ 404.1563; 416.963
 - 18-49: Younger worker
 - 50-54: Closely approaching advanced age
 - 55-59: Advanced age
 - 60 or older: Closely approaching retirement age

EDUCATION

- 20 C.F.R. §§ 404.1567; 416.967
 - up to 6th grade = marginal
 - up to 11th grade = limited
 - H.S. graduate or GED = high school
 - College = more than H.S.
- Literacy may be considered an educational level in age group 45-49 in limited circumstances
 - Ability to speak English no longer relevant
 - See SSR 20-1p

SKILL LEVELS

- Skill categories
 - Unskilled: Simple work, no judgment, takes less than 30 days to learn (An individual who has done only unskilled work has no skills.)
 - Semi-skilled: Some skills but not complex, takes over 30 days to learn
 - Skilled: Complex tasks, use of judgment, long training period or extensive education.

TRANSFERRABLE SKILLS

- Transferable skills are things learned on one job that can be used on another, different job.
- Transferability is most probable among jobs in that involve:
 - the same or lesser degree of skill
 - the same or similar tools or machines; or
 - the same or similar materials, processes, products or services.

SKILLS VS. TRAITS

- Worker traits, which are innate aptitudes or abilities, are not skills, and, therefore, cannot be transferred.
- Ability to pay attention, concentrate, perceive details, do a number of things at one time, manual dexterity, good vision, general intelligence, hand-eye-foot coordination are aptitude or traits - not skills.
 - *See Draegert v. Barnhart*, 311 F.3d 468 (2d Cir. 2002)

APPLICATION OF GRID RULES

- Rules will direct a finding of disabled or not disabled
 - Claimant’s characteristics must fit squarely within a rule for it to apply
 - https://www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm
- The Grids should not apply if the claimant’s nonexertional impairments significantly reduce his or her RFC
- The Grids may be used a “framework” if claimant has both exertional and nonexertional limitations
 - Vocational testimony may be necessary in such cases
 - See *Bapp v. Bowen*, 802 F.2d 601 (2d Cir 1986)

EXERTIONAL LIMITATIONS

- SSA recognizes only seven exertional activities:
 - standing
 - walking
 - sitting
 - lifting
 - carrying
 - pushing and pulling

NON-EXERTIONAL LIMITATIONS

- Non-exertional limitations can be both physical or non-physical.
- Any limitation NOT resulting from any of the seven exertional activities (sitting, standing, walking, lifting/carrying, pushing/pulling) is non-exertional
 - Postural
 - Manipulative
 - Visual
 - Communicative
 - Environmental
 - Mental

NON-EXERTIONAL, cont.

- Mental/emotional or intellectual limitations are considered non-exertional
- Includes limitations that interfere with mental activities associated with competitive, remunerative, unskilled work including the abilities (on a sustained basis)
 - to understand, carry out and remember simple instruction
 - to respond appropriately to supervisors, co-workers and usual work situations
 - to deal with changes in a routine work setting

MENTAL LIMITATIONS

- Substantial loss of ability to meet any of these basic work-related activities would severely limit the potential occupational base
 - SSR 85-15
- See POMS DI 25020.010 for lists of mental skills needed to do any work, unskilled work and semi-skilled or skilled work

MORE NON-EXERTIONAL LIMITS

- Reaching and handling are considered non-exertional activities
 - Required in almost all jobs
 - Significant limitations of reaching or handling may eliminate a large number of occupations, especially sedentary and light occupations in which bimanual dexterity are generally required
 - SSR 83-10, 83-12, 83-14

MORE NON-EXERTIONAL LIMITS

- Hearing, Speech and Communications are also non-exertional
 - limitations in the ability to hear, speak or otherwise communicate may be of great importance
 - loss may significantly affect an individual's occupational base
 - SSR 82-57, 85-15

MORE NON-EXERTIONAL LIMITS

- Postural limitations
 - sit/stand options
 - need to elevate legs
 - inability to stoop, kneel, crouch, crawl, stand straight, etc. can adversely impact many jobs

MORE NON-EXERTIONAL LIMITS

- Environmental restrictions
 - include, but are not limited to, noise, dust, irritants, pollutants, smoke or fumes, extremes of heat, cold or dampness
 - if environmental restrictions fall between very little and excessive, VE testimony is frequently required
 - SSR 85-15

MORE NON-EXERTIONAL LIMITS

- Visual limitations: Visual impairments that do not meet listing level blindness may have a significant adverse impact on the ability to perform work and can be disabling
 - See SSR 83-14
 - See SSR 07-01p re evaluating visual field loss

MORE NON-EXERTIONAL LIMITS

- Pain:
 - Impact of pain on the ability to work is determined by what limitations it imposes
 - *See* SSR 16-3p; 20 CFR §§ 404.1529 and 416.929.
 - No longer an assessment of the credibility?
 - Pain will not be rejected simply because the objective medical evidence does not support the claim

MORE NON-EXERTIONAL LIMITS

- Stress:
 - Stress is in the person, NOT in the job.
 - SSR 82-62, 85-15
 - Individuals for whom “stress” is an issue cannot necessarily do “low stress work” because their stress doesn’t come from the job, but from within themselves (e.g., from their reaction to it)
- Fatigue, weakness, dizziness, shortness of breath and other subjective complaints are non-exertional limitations

SPECIAL MEDICAL-VOCATIONAL PROFILES

- 20 CFR §§ 404.1562 & 416.962; DI 25010.001
- “No Work Experience”
 - 55 years old with no PRW history and limited or less education, with a severe impairment
 - No need to assess RFC
- Arduous Unskilled Work
 - Disabled if thirty–five years of arduous physical work, marginal education and severe impairment that precludes PRW
- Lifetime Commitment
 - 60 years old with limited or less education and a severe impairment and 30 years experience in a field of work with no transferrable skills