



4191-02U

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2018-0022]

Social Security Ruling, SSR 19-2p;

Titles II and XVI: Evaluating Cases Involving Obesity

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are providing notice of SSR 19-2p. This SSR provides guidance on how we establish that a person has a medically determinable impairment of obesity and how we evaluate obesity in disability claims under Titles II and XVI of the Social Security Act.

DATES: We will apply this notice on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 965-1020. 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 site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans' benefits programs. We may base SSRs on determinations or decisions made at

all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all of our components. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the *Federal Register* that rescinds it, or until we publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

Nancy A. Berryhill,
Acting Commissioner of Social Security.

POLICY INTERPRETATION RULING

Titles II and XVI: Evaluating Cases Involving Obesity

This Social Security Ruling (SSR) rescinds and replaces SSR 02-1p; Titles II and XVI: Evaluation of Obesity.

PURPOSE: This SSR provides guidance on how we establish that a person has a medically determinable impairment (MDI) of obesity and how we evaluate obesity in disability claims under Titles II and XVI of the Social Security Act (Act).¹

CITATIONS (AUTHORITY): Sections 216(i), 223(d), 223(f), 1614(a), and 1614(c) of the Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1509, 404.1512, 404.1513, 404.1520, 404.1521-404.1523, 404.1525, 404.1526, 404.1529, 404.1545, 404.1546, 404.1560-404.1569a, 404.1594 and appendices 1 and 2; Regulations No. 16, subpart I, sections 416.902, 416.909, 416.912, 416.913, 416.920, 416.921-416.923, 416.924, 416.924a, 416.925, 416.926, 416.926a, 416.929, 416.945, 416.946, 416.960-416.969a, 416.987, 416.994, and 416.994a.

INTRODUCTION

Obesity, when established by objective medical evidence (signs, laboratory findings, or both) from an acceptable medical source (AMS), is an MDI. We provide guidance in this SSR on how we establish that a person has an MDI of obesity, and how we evaluate obesity in disability claims. People with obesity have a higher risk for other impairments, and the effects of obesity combined with other impairments can be greater

¹ For simplicity, we refer in this SSR only to initial adult claims for disability benefits under Titles II and XVI of the Act. The policy interpretations in this SSR, however, also apply to claims of children (that is, people who have not attained age 18) who apply for benefits based on disability under Title XVI of the Act, continuing disability reviews of adults and children under sections 223(f) and 1614(a)(4) of the Act, and redeterminations of eligibility for benefits we make in accordance with section 1614(a)(3)(H) of the Act when a child who is receiving Title XVI payments based on disability attains age 18.

than the effects of each of the impairments considered separately. Obesity is not a listed impairment; however, the functional limitations caused by the MDI of obesity, either alone or in combination with another impairment(s), may medically equal a listing.² Obesity in combination with another impairment(s) may or may not increase the severity or functional limitations of the other impairment(s). We evaluate each case based on the information in the case record.

On September 12, 2002, we published SSR 02-1p (67 FR 57859) to provide guidance on the evaluation of obesity in disability claims. Since then, we published several final rules that revise some of the criteria we use to evaluate disability claims under Titles II and XVI of the Act. We are issuing this SSR to reflect the changes to the rules we have published, and advances in medical knowledge, since publication of SSR 02-1p.

POLICY INTERPRETATION

The following information is in a question and answer format that provides guidance on how we establish that a person has an MDI of obesity and how we evaluate obesity in disability claims. Questions 1 and 2 provide basic background information about obesity and impairments associated with obesity. Questions 3 and 4 discuss how we establish obesity as an MDI and how we determine if it is a severe MDI. Questions 5 and 6 specify how we evaluate obesity under the Listing of Impairments (listings),³ and how we consider obesity when assessing a person's residual functional capacity (RFC).

List of Questions

1. *How does the medical community diagnose obesity?*

² See 20 CFR 404.1526 and 416.926.

³ See 20 CFR Part 404, Subpart P, Appendix 1.

2. *Which impairments are associated with obesity?*
3. *How do we establish obesity as an MDI?*
4. *When is obesity a severe impairment?*
5. *How do we evaluate obesity under the listings?*
6. *How do we consider obesity in assessing a person's RFC?*

1. *How does the medical community diagnose obesity?*

Obesity is a complex disorder characterized by an excessive amount of body fat, and is generally the result of many factors including environment, family history and genetics, metabolism, and behavior. Health care practitioners diagnose obesity based on a person's medical history, physical examinations, and body mass index (BMI). For adults, BMI is a person's weight in kilograms divided by the square of his or her height in meters (kg/m^2). People with obesity weigh more than what is considered the healthy weight for their height. In the medical community, obesity is defined as a BMI of 30.0 or higher.⁴ ⁵ No specific weight or BMI establishes obesity as a severe impairment within the disability program. For how we establish obesity as an MDI, see Question 3. For when we consider obesity to be a severe impairment, see Question 4.

Health care practitioners may take a waist measurement to help diagnose obesity. If a person's BMI is within the normal range, he or she may still have obesity if his or her

⁴ Jensen, M. D., Ryan, D. H., Donato, K. A., Apovian, C. M., Ard, J.D., Comuzzie, A. G., ... Yanoski, S. Z. (2014). Guidelines (2013) for managing overweight and obesity in adults. *Obesity*, 22(S2), S1-S410. doi:10.1002/oby/20660

⁵ For children age 2 and older, weight status is determined using an age- and gender-specific percentile for BMI rather than the BMI categories used for adults. This is because children's body composition varies as they age and varies between boys and girls. Obesity is defined as a BMI-for-age at or above the 95th percentile. See Barlow, S. E. (2007). Expert committee recommendations regarding the prevention, assessment, and treatment of child and adolescent overweight and obesity: Summary report. *Pediatrics*, 120, S164-S192. doi:10.1542/peds.2007-2329C

waist measurement is high. People who store more fat around their waist rather than their hips may have a greater risk of obesity-related complications. The risk increases for a waist size greater than 35 inches for women and greater than 40 inches for men.⁶

2. Which impairments are associated with obesity?

Obesity is often associated with musculoskeletal, respiratory, cardiovascular, and endocrine disorders. Obesity also increases the risk of developing impairments including:

- Type II diabetes mellitus;
- Diseases of the heart and blood vessels (for example, high blood pressure, atherosclerosis, heart attacks, and stroke);
- Respiratory impairments (for example, sleep apnea, asthma, and obesity hypoventilation syndrome);
- Osteoarthritis;
- Mental impairments (for example, depression); and
- Cancers of the esophagus, pancreas, colon, rectum, kidney, endometrium, ovaries, gallbladder, breast, or liver.

The fact that obesity increases the risk for developing other impairments does not mean that people with obesity necessarily have any of these impairments. It means that they are at greater than average risk for developing other impairments.

3. How do we establish obesity as an MDI?

We establish obesity as an MDI by considering objective medical evidence (signs, laboratory findings, or both) from an AMS. We will not use a diagnosis or a statement of

⁶ Jensen, M. D., Ryan, D. H., Donato, K. A., Apovian, C. M., Ard, J.D., Comuzzie, A. G., ... Yanoski, S. Z. (2014). Guidelines (2013) for managing overweight and obesity in adults. *Obesity*, 22(S2), S1-S410. doi:10.1002/oby.20660

symptoms to establish the existence of an MDI.⁷ Signs and laboratory findings from an AMS that may establish an MDI of obesity include measured height and weight, measured waist size, and BMI measurements over time.

We calculate BMI based on the medical evidence in the case record, even if the person's medical source(s) has not indicated that the person has obesity. We will not calculate BMI based on a person's self-reported height and weight. In addition, we will not purchase tests to measure body fat. When deciding whether a person has an MDI of obesity, we consider the person's weight over time. We consider the person to have an MDI of obesity as long as his or her weight, measured waist size, or BMI shows a consistent pattern of obesity.

Although there is often a correlation between BMI and excess body fat, this is not always the case. Someone who has a BMI of 30 or above may not have an MDI of obesity if a large percentage of the person's weight is from muscle. It will usually be evident from the information in the case record whether the person does not have an MDI of obesity, despite a BMI of 30 or above.

4. When is obesity a severe impairment?

When we evaluate the severity of obesity, we consider all evidence from all sources. We consider all symptoms, such as fatigue or pain that could limit functioning.⁸ We consider any functional limitations in the person's ability to do basic work activities resulting from obesity and from any other physical or mental impairments. If the person's obesity, alone or in combination with another impairment(s), significantly limits his or her physical or mental ability to do basic work activities, we find that the impairment(s)

⁷ See 20 CFR 404.1521 and 416.921.

⁸ See 20 CFR 404.1529 and 416.929.

is severe.⁹ We find, however, that the impairment(s) is “not severe” if it does not significantly limit [a person’s] physical or mental ability to do basic work activities.¹⁰

No specific weight or BMI establishes obesity as a “severe” or “not severe” impairment. Similarly, a medical source’s descriptive terms for levels of obesity, such as “severe,” “extreme,” or “morbid,” do not establish whether obesity is a severe impairment for disability program purposes. We do an individualized assessment of the effect of obesity on a person’s functioning when deciding whether the impairment is severe.

5. How do we evaluate obesity under the listings?

Obesity is not a listed impairment; however, the functional limitations caused by the MDI of obesity, alone or in combination with another impairment(s), may medically equal a listing.¹¹ For example, obesity may increase the severity of a coexisting or related impairment(s) to the extent that the combination of impairments medically equals a listing.¹²

We will not make general assumptions about the severity or functional effects of obesity combined with another impairment(s). Obesity in combination with another impairment(s) may or may not increase the severity or functional limitations of the other impairment. We evaluate each case based on the information in the case record.

⁹ For children applying for disability under Title XVI, we find that the impairment(s) is severe when it causes more than minimal functional limitations. See 20 CFR 416.924(c).

¹⁰ See 20 CFR 404.1522 and 416.922.

¹¹ See 20 CFR 404.1526 and 416.926.

¹² For children applying for disability under Title XVI, we may evaluate the functional consequences of obesity (either alone or in combination with other impairments) to decide if the child’s impairment(s) functionally equals the listings. For example, the functional limitations imposed by obesity, by itself or in combination with another impairment(s), may establish extreme limitation of one domain of functioning or marked limitation of two domains. See 20 CFR 416.926a.

6. *How do we consider obesity in assessing a person's RFC?*

We must consider the limiting effects of obesity when assessing a person's RFC.¹³ RFC is the most an adult can do despite his or her limitation(s). As with any other impairment, we will explain how we reached our conclusion on whether obesity causes any limitations.

A person may have limitations in any of the exertional functions, which are sitting, standing, walking, lifting, carrying, pushing, and pulling. A person may have limitations in the nonexertional functions of climbing, balancing, stooping, kneeling, crouching, and crawling. Obesity increases stress on weight-bearing joints and may contribute to limitation of the range of motion of the skeletal spine and extremities. Obesity may also affect a person's ability to manipulate objects, if there is adipose (fatty) tissue in the hands and fingers, or the ability to tolerate extreme heat, humidity, or hazards.

We assess the RFC to show the effect obesity has upon the person's ability to perform routine movement and necessary physical activity within the work environment. People with an MDI of obesity may have limitations in the ability to sustain a function over time. In cases involving obesity, fatigue may affect the person's physical and mental ability to sustain work activity. This may be particularly true in cases involving obesity and sleep apnea.

The combined effects of obesity with another impairment(s) may be greater than the effects of each of the impairments considered separately. For example, someone who has obesity and arthritis affecting a weight-bearing joint may have more pain and functional limitations than the person would have due to the arthritis alone. We consider

¹³ See 20 CFR 404.1545 and 416.945.

all work-related physical and mental limitations, whether due to a person's obesity, other impairment(s), or combination of impairments.

This SSR is applicable on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].¹⁴

Cross References: SSR 82-52: Titles II and XVI: Duration of the Impairment; SSR 85-28: Titles II and XVI: Medical Impairments That Are Not Severe; SSR 86-8: Titles II and XVI: The Sequential Evaluation Process; SSR 96-8p: Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims; SSR 16-3p: Titles II and XVI: Evaluation of Symptoms in Disability Claims; SSR 17-2p: Titles II and XVI: Evidence Needed by Adjudicators at the Hearings and Appeals Council Levels of the Administrative Review Process to Make Findings about Medical Equivalence; and Program Operations Manual System (POMS) DI 22505.001, DI 22505.003, DI 24501.020, DI 24501.021, DI 24503.005, DI 24505.001, DI 24505.005, DI 24508.010, DI 24510.005, DI 24515.062, and DI 24515.063.

¹⁴ We will use this SSR beginning on its applicable date. We will apply this SSR to new applications filed on or after the applicable date of the SSR and to claims that are pending on and after the applicable date. This means that we will use this SSR on and after its applicable date in any case in which we make a determination or decision. We expect that Federal courts will review our final decisions using the rules that were in effect at the time we issued the decisions. If a court reverses our final decision and remands a case for further administrative proceedings after the applicable date of this SSR, we will apply this SSR to the entire period at issue in the decision we make after the court's remand.

[FR Doc. 2019-10432 Filed: 5/17/2019 8:45 am; Publication Date: 5/20/2019]