



SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2020-0023]

Rescission of Acquiescence Ruling 15-1(4)

AGENCY: Social Security Administration.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling (AR) 15-1(4) – *Radford v. Colvin*, 734 F.3d 288 (4th Cir. 2013)—Standard for Meeting the Listing for Disorders of the Spine with Evidence of Nerve Root Compression.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), 404.985(e) and 416.1485(e), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 15-1(4).

DATES: We will apply this rescission notice on April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1020 or TTY 410-966-5609. 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: An AR explains how we will apply the holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), we may rescind an AR as obsolete and apply our interpretation of the Act or regulations if we subsequently

clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding that we determined conflicts with our interpretation of the Act or regulations.

On September 23, 2015, we published AR 15-1(4) (80 FR 57418) to reflect the holding in *Radford v. Colvin*, 734 F.3d 288 (4th Cir. 2013). In *Radford*, the United States Court of Appeals for the Fourth Circuit held that listing 1.04A required a claimant to show only “that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months,” 734 F.3d at 294. Contrary to our policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in paragraph A, the Court of Appeals held that a claimant need not show that each criterion was present simultaneously or in particularly close proximity.

This rescission notice is the result of publication of the final rule, “Revised Medical Criteria for Evaluating Musculoskeletal Disorders,” published on December 3, 2020 at 85 FR 78164. The final rule clarified our longstanding policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in the listing. Specifically, the final rule state in section 1.00C7 that, when the listing criteria are linked by the word “and,” the requirements must be present within a “close proximity of time.” We define “close proximity of time” as meaning that all of the relevant criteria must appear in the medical record within a consecutive 4 month period.

We incorporated the provisions of former Listing 1.04A, the subject of the court’s holding in *Radford*, into the final rule in Listing 1.15. Since Listing 1.15 links the symptoms, signs, findings, and impairment-related physical limitations found in A, B, C, and D of the listing with the word “AND,” these criteria, must appear in the medical record within a consecutive 4-month period. Further, the final rule also clarified that the requirement that all the medical criteria in the listing be present simultaneously or within

a close proximity of time applies to other listings that use the word “and” to link the elements of the required criteria.

Accordingly, because the regulation that was the subject of the *Radford* AR has been revised, we are rescinding AR 15–1(4) concurrently with the effective date of the final rule. The final rule and this notice of rescission restore uniformity to our nationwide system of rules in accordance with our commitment to the goal of administering our programs through uniform national standards.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 6.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006—Supplemental Security Income.)

The Commissioner of the Social Security Administration, Andrew Saul, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the Federal Register.

Faye I. Lipsky,

Federal Register Liaison,

Office of Legislation and Congressional Affairs,

Social Security Administration.

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