

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

43,127

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6p

BRIAN ZEBLEY, et al.,

Plaintiffs,

v.

LOUIS W. SULLIVAN, M.D.,
Secretary of Health,
and Human Services,

Defendant.

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CIVIL ACTION NO. 83-3314 1012839

(6pp-)

STIPULATION AND ORDER

IT IS HEREBY AGREED by the parties that:

1. The attached "Interim Standard: Claimants for SSI Disabled Children's Payments" shall become effective upon the entry of this Stipulation and Order. The interim standard will be issued to all disability adjudicators as an administrative instruction and will be applied to all pending and new children's Supplemental Security Income (SSI) disability claims until a new regulation governing the adjudication of **children's** SSI disability claims is published.

2. The State Disability Determination Services (DDS), which are responsible for obtaining necessary evidence and making initial and reconsideration **disability** determinations under the guidance of the social Security Administration pursuant to the Social Security Act and regulations, 42 U.S.C. §§ 421 and 1383b(a); 20 C.F.R. §§ 416.1001 et seq., and the Office of Hearings and Appeals will adjudicate claims under the interim standard as provided in ¶ 3 of this Stipulation and Order.

3. The Social Security Administration shall provide each

individual whose claim is denied under the interim standard with the opportunity for a reconsideration determination under the interim standard. 20 C.F.R. §§ 416.1400(a)(2) and 416.1407 through 416.1422. Claims denied under the interim standard will be reviewed in accordance with ¶ 4 of this Stipulation and Order, and, therefore, no further steps of the administrative review process (including administrative law judge hearing, Appeals Council review, or judicial **review**) as set forth in 20 C.F.R. §§ 416.1400(a)(3), (4), (5), and (6) will be available to review DDS **denials** under the interim standard. The Office of Hearings and Appeals **may**, in its discretion, with respect to children's disability claims now pending before it, either allow a claim under the interim standard or remand a **claim** to the appropriate DDS for additional evidentiary development and adjudication. Claimants with cases pending before an Administrative Law Judge for whom no hearing has been scheduled or pending before the Appeals Council **may** elect to have their claims remanded to the DDS.

4. When a new regulation is published pursuant to ¶ 1 of this Stipulation and Order, the Social Security Administration shall review all cases denied and may review cases allowed under the interim standard to determine whether benefits should be allowed under the new regulation, without regard to whether the child had demonstrated medical **improvement** since the time his or her claim was granted under the interim standard. An allowance of benefits under the interim standard is an initial determination for

ERIM STANDARD:

CRITERIA FOR SSI DISABLED CHILDREN'S

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20 C.F.R. § 416.926 whether a child's impairment or combination of impairments "equals" a listing, all adjudicators must consider the overall functional consequences of the impairment upon the child's daily living activities and

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Where an individualized functional assessment shows that the child is exceptionally restricted in his or her ability to perform activities of daily living or behaviors appropriate to the child's age, such as communicating, dressing, feeding, feeding himself or herself, the child will be

... ... sources and others.

... child's level of functional performance from parents, teachers, and others who have observed the child. Evidence in the form of

... fair, accurate, and reliable evidence that SSA and the evaluation team have consulted or other appropriate staff and

... where she ... that are ... that ... found not ... listing or ... children. ... but ... (b) ...