

Document: Final Rule

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**TITLE 405 OFFICE OF THE SECRETARY OF
FAMILY AND SOCIAL SERVICES**

LSA Document #00-128(F)

DIGEST

Amends 405 IAC 2-2-3 to revise principles used in determining eligibility for the Medicaid disability program in order to conform with the durational requirement established by Senate Enrolled Act 79 (Public Law 67-2000, Section 1). Effective 30 days after filing with the secretary of state.

405 IAC 2-2-3

SECTION 1. 405 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

405 IAC 2-2-3 Disability determination

Authority: IC 12-8-6-5; IC 12-15-1-10; IC 12-15-1-15; IC 12-15-21-2

Affected: IC 12-13-7-3; IC 12-14-15-1; IC 12-15

Sec. 3. (a) The determination of whether an applicant or recipient is disabled according to the definition of disability prescribed in ~~IC 12-1-7.1-1(b)~~ **IC 12-14-15-1(2)** is made by the ~~state department~~ **Medicaid** medical review team (**MMRT**) based upon the following principles:

(1) The determination of whether a condition appears reasonably certain to ~~continue throughout the lifetime of the individual~~ **result in death or that has lasted or appears reasonably certain to last for a continuous period of at least four (4) years** without significant improvement is made on the basis of the expected duration of the condition. A condition which is ~~expected to continue indefinitely~~ **fulfills this requirement whereas one that is temporary (less than four (4) years) or transient does not fulfill this requirement.** The expected duration of the condition does not preclude the possibility of future medical advances, changed diagnosis or prognosis, unforeseen recovery, or successful treatment subsequent to the initial prognosis.

(2) The determination of whether a condition substantially impairs his ability to perform labor or services or to engage in a useful occupation will be made based upon a consideration of the following:

(A) The applicant's functional limitations:

(i) Consideration is given to the applicant's significant physical functions and capacity which affect vocational capacity such as standing, walking, lifting, range of motion, strength, agility, and stamina.

(ii) Consideration is given to the individual's intellectual and sensory functions which affect vocational capacity such as sight, speech, hearing, reasoning, and following directions.

(iii) Consideration is given to the applicant's capacity for sustained activity on a regular basis.

(B) The applicant's age:

(i) An individual who is not engaged in a useful occupation solely because of age cannot be found disabled if his impairment, education, and work experience would enable him to function in a useful capacity.

(ii) If the applicant is over age fifty-five (55), his age may be considered a significant factor in his ability to engage in or adapt to a useful occupation.

(iii) If the applicant is under age eighteen (18), his condition is evaluated in terms of how it affects his activities and restricts his physical, mental, emotional, and social growth, learning, and development.

(iv) A condition which is likely to substantially impair a child's ability to become an independent and self-supporting adult is a basis for a finding of disability.

(C) The applicant's education and training:

(i) Consideration is given to the applicant's formal schooling and other training that contributes to his ability to meet vocational requirements.

(ii) Past work experience, daily activities, and hobbies are considered in determining and evaluating skills not acquired in a formal setting.

(iii) In determining whether these factors are vocationally significant, consideration is given to the time elapsed since the completion of education, training, or the exercise of acquired skills.

(iv) Lack of education and training is not of itself a basis for a finding of disability.

(D) The applicant's work experience:

(i) The applicant's inability to engage in his former occupation is not, in itself, a basis for a finding of disability.

(ii) Work performed fifteen (15) or more years prior to an application is not considered vocationally relevant. Similarly, an individual who has no work experience or only sporadic work experience in the previous fifteen (15) years is considered to have no work experience relevant to the determination of disability.

(iii) The absence of work experience is not in itself a basis for a finding of disability.

(iv) If an applicant is physically or mentally unable to engage in any previous occupation but his remaining functional capacity and vocational capabilities are sufficient to meet the demands and adjustments required by a different occupation, the applicant is not considered disabled.

(b) Except as provided below, a redetermination of disability is required annually of each recipient at the time the county ~~department office~~ does its complete redetermination of all factors of eligibility. Redeterminations of disability may be required more frequently or may be waived at the discretion of the ~~state department medical review team~~ **MMRT** based upon the condition of the recipient. (*Office of the Secretary of Family and Social Services; 405 IAC 2-2-3; filed Mar 1, 1984, 2:31 p.m.: 7 IR 1015, eff Apr 1, 1984; errata, 7 IR 1254; filed Dec 21, 2000, 2:06 p.m.: 24 IR 1342*) *NOTE: Transferred from the Division of Family and Children (470 IAC 9.1-2-3) to the Office of the Secretary of Family and Social Services (405 IAC 2-2-3) by P.L.9-1991, SECTION 131, effective January 1, 1992.*

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