

# Social Security Disability

**Overview & Issue Spotting for  
Federal Court Clinic**

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# Disability Insurance Benefits vs. Supplemental Security Income

DIB	SSI
Quarters of coverage	No need to pay in
Date last insured	No date last insured
Benefit based on what you've earned	Fixed benefit (\$794)
No resource limit	Resource limit (\$2000)
Medicare	Medicaid (AHCCCS)

- It is possible to qualify for and receive both, up to the SSI max!
- You only get the larger benefit

# Other Disability Benefits

- Disabled Adult Child
  - Must be disabled before age 22 (and ongoing)
  - Parent must receive Social Security retirement, disability, or deceased
  - Benefit based on parent's earning record
  - Extinguished upon marriage

# Other Disability Benefits

- Child SSI
  - Must be disabled under special child disability rules - Listings
  - Family resource limit
  - When Child turns 18, apply for adult SSI

# Definition of Disability

- Adults: The law defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.



# Definition of Disability

- Children: A child under age 18 will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.



# Disability Application Process

- Initial Application
  - Online [www.SSA.gov](http://www.SSA.gov)
  - By phone/in person at SSA office
- Request for Reconsideration
- Request for Hearing
- ALJ Hearing
- Appeals Council
  
- US District Court
- 9<sup>th</sup> Circuit
- US Supreme Court

The diagram uses two large blue curly braces on the right side of the slide to group the steps. The top brace, labeled 'Inside SSA', encompasses the first five steps: Initial Application, Request for Reconsideration, Request for Hearing, ALJ Hearing, and Appeals Council. The bottom brace, labeled 'Outside SSA', encompasses the last three steps: US District Court, 9<sup>th</sup> Circuit, and US Supreme Court.

Inside SSA

Outside SSA

# 5 Step Sequential Evaluation

- Step 1: Substantial Work
- Step 2: Severe Impairments
- Step 3: Listings
- Step 4: RFC and past work
- Step 5: Any other work - Grids





# Sedentary Grid

<u>Rule</u>	<u>Age</u>	<u>Education</u>	<u>Previous Work Experience</u>	<u>Decision</u>
201.01	Advanced Age	Limited or less	Unskilled or none	Disabled
201.02	Advanced Age	Limited or less	Skilled or semiskilled-skills not transferable	Disabled
201.03	Advanced Age	Limited or less	Skilled or semiskilled-skills transferable	Not disabled
201.04	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Unskilled or none	Disabled
201.05	Advanced Age	High school graduate or more-provides for direct entry into skilled work	Unskilled or none	Not disabled
201.06	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Disabled
201.07	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills transferable	Not disabled
201.08	Advanced Age	High school graduate or more-provides for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Not disabled

# Sedentary Grid

201.09	Closely approaching advanced age	Limited or less	Unskilled or none	Disabled
201.10	Closely approaching advanced age	Limited or less	Skilled or semiskilled-skills not transferable	Disabled
201.11	Closely approaching advanced age	Limited or less	Skilled or semiskilled-skills transferable	Not disabled
201.12	Closely approaching advanced age	High school graduate or more-does not provide for direct entry into skilled work	Unskilled or none	Disabled
201.13	Closely approaching advanced age	High school graduate or more-provides for direct entry into skilled work	Unskilled or none	Not disabled
201.14	Closely approaching advanced age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Disabled
201.15	Closely approaching advanced age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills transferable	Not disabled
201.16	Closely approaching advanced age	High school graduate or more-provides for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Not disabled

# Light Grid

<u>Rule</u>	<u>Age</u>	<u>Education</u>	<u>Previous Work Experience</u>	<u>Decision</u>
202.01	Advanced Age	Limited or less	Unskilled or none	Disabled
202.02	Advanced Age	Limited or less	Skilled or semiskilled-skills not transferable	Disabled
202.03	Advanced Age	Limited or less	Skilled or semiskilled-skills transferable	Not disabled
202.04	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Unskilled or none	Disabled
202.05	Advanced Age	High school graduate or more-provides for direct entry into skilled work	Unskilled or none	Not disabled
202.06	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Disabled
202.07	Advanced Age	High school graduate or more-does not provide for direct entry into skilled work	Skilled or semiskilled-skills transferable	Not disabled
202.08	Advanced Age	High school graduate or more-provides for direct entry into skilled work	Skilled or semiskilled-skills not transferable	Not disabled

# Light Grid

202.09	Closely approaching advanced age	Illiterate or unable to communicate in English	Unskilled or none	Disabled
202.10	Closely approaching advanced age	Limited or less-at least literate and able to communicate in English	Unskilled or none	Not disabled
202.11	Closely approaching advanced age	Limited or less	Skilled or semiskilled-skills not transferable	Not disabled
202.12	Closely approaching advanced age	Limited or less	Skilled or semiskilled-skills transferable	Not disabled
202.13	Closely approaching advanced age	High school graduate or more	Unskilled or none	Not disabled
202.14	Closely approaching advanced age	High school graduate or more	Skilled or semiskilled-skills not transferable	Not disabled
202.15	Closely approaching advanced age	High school graduate or more	Skilled or semiskilled-skills transferable	Not disabled
202.16	Younger individual	Illiterate or unable to communicate in English	Unskilled or none	Not disabled
202.17	Younger individual	Limited or less-at least literate and able to communicate in English	Unskilled or none	Not disabled

# Common Social Security Clinic Issues

- Overpayments
- Continuing Disability Reviews (CDRs)



# Overpayments

- Request Reconsideration
  - Form SSA-561
- Waiver
  - Form SSA-632
  - No Fault
  - Unable to Pay

# Continuing Disability Reviews

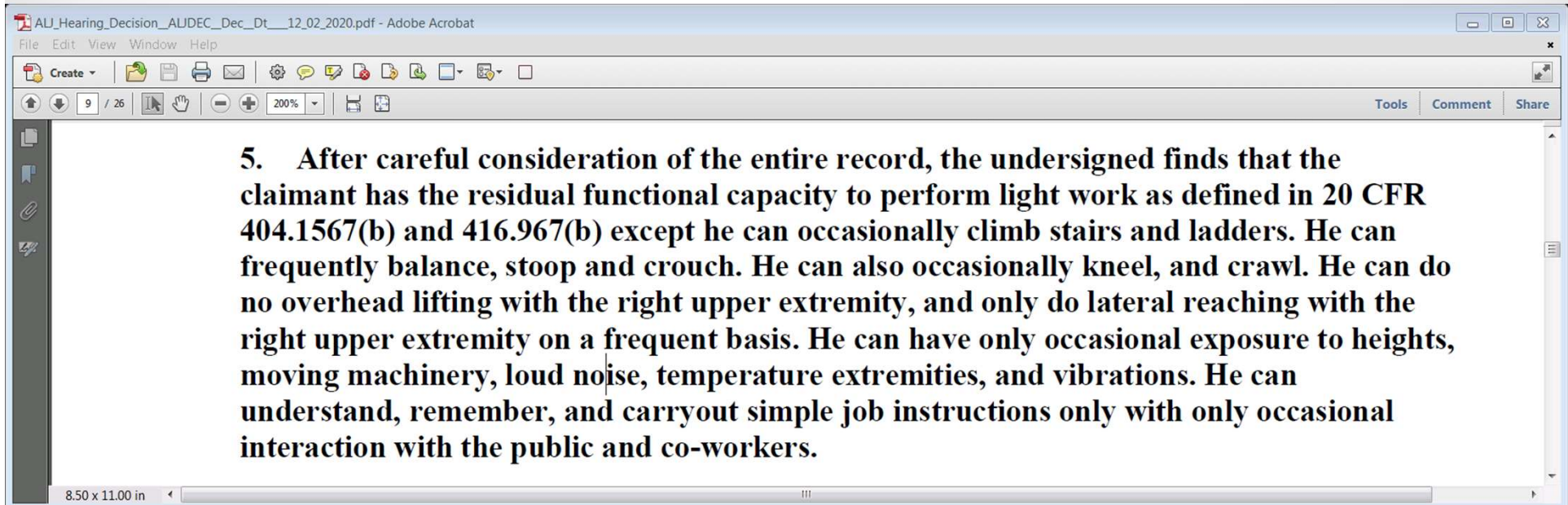
- Returned to work?
  - Trial Work Period surpassed?
  - Is work SGA?
  
- Medical Improvement?
  - Ongoing Treatment
  - Treating Source Statements

# Issue Spotting

- Sample Unfavorable ALJ Decisions







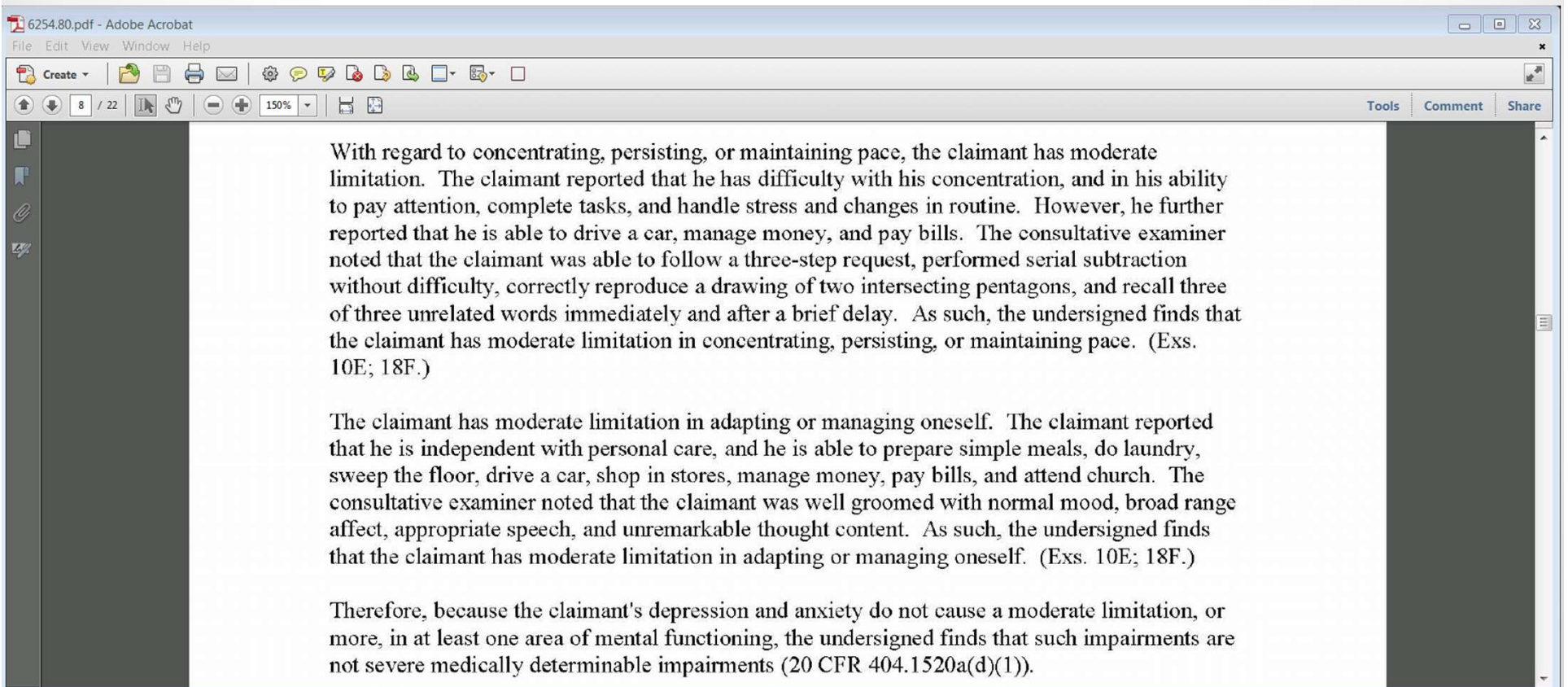
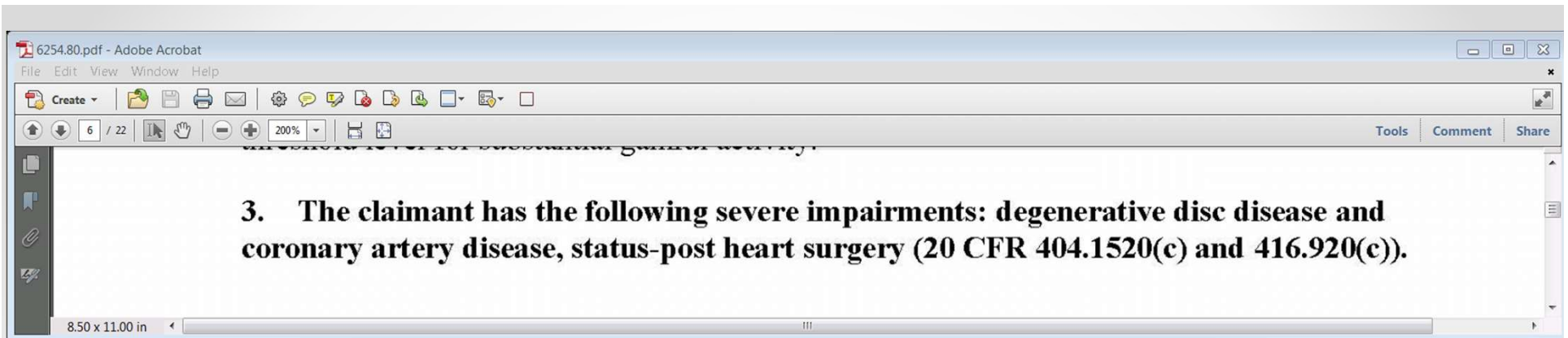
**5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b) and 416.967(b) except he can occasionally climb stairs and ladders. He can frequently balance, stoop and crouch. He can also occasionally kneel, and crawl. He can do no overhead lifting with the right upper extremity, and only do lateral reaching with the right upper extremity on a frequent basis. He can have only occasional exposure to heights, moving machinery, loud noise, temperature extremities, and vibrations. He can understand, remember, and carryout simple job instructions only with only occasional interaction with the public and co-workers.**

of these factors the individual would be able to perform the requirements of the following representative occupations:

Job Title	DOT Number	Exertional level	SVP	Skill Level	Availability in the National Economy
Shipping and Receiving Weigher	222.387-074	Light	2	Unskilled	10,574
Inspector Hand Packager	559.687-074	Light	2	Unskilled	225,782
Surveillance Systems Monitor	379.367-010	Sedentary	2	Unskilled	10,280

Pursuant to SSR 00-4p, the undersigned has determined that the vocational expert's testimony is consistent with the information contained in the Dictionary of Occupational Titles. Vocational expert testified that any information not addressed by Dictionary of Occupational Titles was based on her experience and training. Specifically with regards to reaching overhead. No objections or arguments were made at or after the hearing by the claimant's attorney representative about the testimony given by the vocational expert. Therefore, the undersigned accepts her testimony and the additional information given based on her years of experience and her knowledge of the labor market.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, the claimant is capable of making a successful adjustment to other work that exists in significant numbers in the national economy. A finding of "not disabled" is therefore appropriate under the framework of the above-cited rule.



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**4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525 and 404.1526).**

The severity of the claimant's mental impairments, considered singly and in combination, do not meet or medically equal the criteria of listings 12.04, and 12.06. In making this finding, the undersigned has considered whether the "paragraph B" criteria are satisfied. To satisfy the "paragraph B" criteria, the mental impairments must result in at least two of the following: marked restriction of activities of daily living; marked difficulties in maintaining social functioning; marked difficulties in maintaining concentration, persistence, or pace; or repeated episodes of decompensation, each of extended duration. A marked limitation means more than moderate but less than extreme. Repeated episodes of decompensation, each of extended duration, means three episodes within 1 year, or an average of once every 4 months, each lasting for at least 2 weeks.

In activities of daily living, the claimant has mild restriction. Claimant reported that she is able to take care of her son, perform some light cleaning and cooking, but does so very slowly. (EX 9F/2; EX 20F/9).

In social functioning, the claimant has mild difficulties. Claimant interacts daily with family members and is able to go to public places such as the library, grocery store, and prayer group, but does require assistance from family members in driving. (EX 20F/3).

With regard to concentration, persistence or pace, the claimant has marked difficulties. Claimant obtained a score of 22/30 on her mini-mental status examination and was found to be moderately impaired across most cognitive realms. (EX 11F/7; EX 20F/3).

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**5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) except claimant can lift/carry 20 pounds occasionally. Claimant can stand/walk for 2 hours per day and sit for about 6 hours in an 8 hour workday, alternating positions every hour. Claimant can never climb ladders/ropes/scaffolds and can occasionally climb ramps/stairs, balance, stoop, kneel, crouch and crawl. Claimant can occasionally reach bilaterally and can frequently perform gross handling, fine fingering and fine feeling bilaterally. Claimant should avoid working around unprotected heights and moving machinery. Claimant can occasionally be exposed to humidity and temperature extremes, occasionally operate a motor vehicle and frequently be exposed to dust, fumes, smoke and vibrations. Finally, claimant can occasionally understand and carry out complex, detailed instructions, with occasional interaction with co-workers and the public and occasionally respond appropriately to usual work situations and changes in the work setting.**

for determining eligibility for disability benefits.

Claimant underwent a second vocational evaluation on March 3, 2015 at the request of Disability Assessment Research Center. (EX 15F). He put the claimant through a gamut of tests, as well as reviewed her prior vocational evaluation, and opined that given the claimant's numerous and specific limitations, she would require very special placement in a job with an understanding employer who was willing to make accommodations. (Id. at 9). Undersigned gives reduced

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weight to this evaluation as Dr. Rastatter was evaluating the claimant related to vocational issues and not based upon the standards for eligibility for disability benefits.

**5. After careful consideration of the entire record, the undersigned finds that, through the date last insured, the claimant had the residual functional capacity to perform medium work as defined in 20 CFR 404.1567(c) except the claimant could frequently climb, stoop, kneel, crouch and crawl. The claimant should avoid concentrated exposure to extreme cold, extreme heat, humidity, noise, moving machinery, unprotected heights, fumes, odors, dusts, gases and poor ventilation. The claimant could understand, remember and carry out at least simple instructions, could make simple work-related decisions and abide by a schedule, could respond appropriately to supervisors, coworkers, when interactions were occasional in frequency, duration and scope and could deal with at least minor changes, in work routines.**

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**10. Through the date last insured, considering the claimant's age, education, work experience, and residual functional capacity, there were jobs that existed in significant numbers in the national economy that the claimant could have performed (20 CFR 404.1569 and 404.1569a).**

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

Through the date last insured, if the claimant had the residual functional capacity to perform the full range of medium work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 203.07. However, the additional limitations had little or no effect on the occupational base of unskilled medium work. A finding of "not disabled" is therefore appropriate under the framework of this rule.

The State agency found the claimant could perform other work at the medium exertional level with the mental limitations as noted herein. For example, they noted the claimant could perform the following jobs:



# Questions?

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