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MEMORANDUM

DATE: January 26, 2011

TO: Ms. Sharon L. Summers, DSS
Policy, Program & Development Unit

FROM: Daniese McMullin-Powell, ^{DMP/KIP} Chairperson
State Council for Persons with Disabilities

RE: 14 DE Reg. 620 [DSS Proposed Food Supplement Program Verification Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services' (DSS) proposal to amend its Food Supplement Program regulation regarding Mandatory Verification. The proposed regulation was published as 14 DE Reg. 620 in the January 1, 2011 issue of the Register of Regulations. SCPD has the following observations.

First, SCPD appreciates that there are multiple consumer-oriented provisions. For example, §1.B.1 recites as follows: "If an alien does not wish DSS to contact INS to verify his or her immigration status, give the household the option of withdrawing its application or participating without that member."

Second, §1.H. 1 could be cause for concern. It recites as follows: "The disability must be one considered permanent under the Social Security Act." The Social Security Administration general standard for SSI and SSDI benefits is that the disability must either be expected to last for at least 1 year or result in death. See attached Q&A document. The second SSA attachment recites as follows:

Most of the listed impairments are permanent or expected to result in death, or the listing includes a specific statement of duration is made. For all other listings, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months.

In many cases, an individual will not know the precise "listing" upon which his/her SSI/SSDI benefits are based. Moreover, individuals may be found eligible if their condition(s) do not meet

a listing but are functionally equivalent to a listing. Unless USDA regulations require DSS to limit disability eligibility to SSI/SSDI beneficiaries with a “permanent” disability as juxtaposed to beneficiaries awaiting death or with 12-month+ conditions, SCPD recommends amending this section. Consider the following alternative: “The disability must be one considered permanent or expected to last more than 12 months or result in death under the Social Security Act.”

Third, in §1.H.2.ii, consider substituting “chronic” for “permanent”. Alternatively, consider the following substitute: “...s/he suffers from some other severe physical or mental disease or non-disease related disability considered permanent or expected to last more than 12 months or result in death.”

Fourth, in §1.H.2.ii, consider the following amendment: “...statement from a physician, advanced practice nurse, or licensed or certified psychologist...”. As a practical matter, many individuals are now primarily treated by an advanced practice nurse rather than a traditional physician. Advanced practice nurses are authorized to perform independent acts of diagnosis and prescribe drugs. See Title 24 Del.C. §1902(b)(1). State law bars health insurers from denying benefits for eligible services when provided by an advanced practice nurse instead of a physician. See Title 18 Del.C. §2318. The attached December 28, 2010 News Journal article underscores that many individuals are primarily treated by advanced practice nurses.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Rosanne Mahaney
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

14reg620 dss-food supp 1-26-11

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Disability Evaluation Under Social Security

(Blue Book- September 2008)

Search Blue Book

Part III - Listing Of Impairments

Adult Listings (Part A)

Childhood Listings (Part B)

General Information

Evidentiary Requirements

Listing of Impairments (overview)

The Listing of Impairments describes, for each major body system, impairments considered severe enough to prevent an individual from doing any gainful activity (or in the case of children under age 18 applying for SSI, severe enough to cause marked and severe functional limitations). Most of the listed impairments are permanent or expected to result in death, or the listing includes a specific statement of duration is made. For all other listings, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months. The criteria in the Listing of Impairments are applicable to evaluation of claims for disability benefits under the Social Security disability insurance program or payments under both the SSI program.

Part A of the Listing of Impairments contains medical criteria that apply to the evaluation of impairments in adults age 18 and over. The medical criteria in Part A may also be applied in evaluating impairments in children under age 18 if the disease processes have a similar effect on adults and younger children.

Part B of the Listing of Impairments contains additional medical criteria that apply only to the evaluation of impairments of persons under age 18. Certain criteria in Part A do not give appropriate consideration to the particular effects of the disease processes in childhood; that is, when the disease process is generally found only in children or when the disease process differs in its effect on children and adults.

Additional criteria are included in Part B, and the impairment categories are, to the extent possible, numbered to maintain a relationship with their counterparts in Part A. In evaluating disability for child under age 18, part B will be used first. If the medical criteria in part B do not apply, then the medical criteria in part A will be used.

The criteria in the Listing of Impairments apply only to one step of the multi-step sequential evaluation process. At that step, the presence of an impairment that meets the criteria in the Listing of Impairments (or that is of equal severity) is usually sufficient to establish that an individual who is not working is disabled.

However, the absence of a listing-level impairment does not mean the individual is not disabled. Rather, it merely requires the adjudicator to move on to the next step of the process and apply other rules in order to resolve the issue of disability.

SSA Pub. No. 64-039
ICN 468600
September 2008

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Impairment list to determine disability.

Updated 12/28/2010 03:20 PM | Answer ID 297

Does Social Security use a list of impairments to determine if I can get disability benefits?

For an adult to be considered disabled by Social Security, you must have a medical condition that prevents you from working and that is expected to last for at least one year or result in death. We use a five-step process to decide whether you are disabled. As part of that process, we check to see if you have a condition as described in the listing of impairments. If you do, we consider your medical condition to be disabling. Even if your particular medical condition is not on the list, you may still be found disabled.

For more information about the disability decision process, we recommend that you read the booklet, [Social Security Disability Benefits \(Publication No. 05-10029\)](#). The booklet explains the requirements for receiving disability benefits and the five-step process.

You also can find descriptions of the conditions that appear in our Listing of Impairments in the publication, ["Disability Evaluation Under Social Security" \(SSA Publication No. 64-039\)](#), also referred to as "The Blue Book." This publication is intended primarily for physicians and other health professionals.

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The rise of the nurse practitioner

They're not physicians, but they do almost everything physicians do -- and it's a growing trend in the US

By CHRISTINE FACCILOLO • Special to The News Journal • December 28, 2010

Holly Wright spends her days seeing patients, making diagnoses, writing prescriptions and ordering and interpreting lab tests and X-rays. But she is not a physician. Wright is a nurse practitioner, a registered nurse with advanced training and expertise.

During the past five years, the number of nurse practitioners in the United States has increased by nearly 40 percent to about 140,000, according to the American Association of Nurse Practitioners. Delaware counts 650 practitioners.

The trend is being driven by a shortage of primary care doctors, which experts contend is leaving many Americans without timely access to medical care. In Delaware, about 14 percent of the population lives in an area underserved by a primary health care professional, compared with 11 percent nationally, according to the Kaiser Family Foundation.

Nurse practitioners practice according to their specialty and bring a unique blend of nursing and medical services to those under their care. The core philosophy of the field is individualized care. Nurse practitioners focus on the patient's condition as well as the effects of the illness on the patient and the family. Teaching, counseling and prevention are key components of their practice.

"We spend more time talking about things with them and delve into their psychological issues or things that are impacting their ability to really care for themselves the way they should," said Adrienne Woods, a nurse practitioner who cares for returning Operation Enduring Freedom and Operation Iraqi Freedom veterans at the Wilmington VA Medical Center in Elsmere. "If they're diabetic, we include the wife and go over the nutritional value of food and how to prepare it so they can control their blood

sugar."

Because the profession is state-regulated, a nurse practitioner's services can vary widely. Some states allow nurse practitioners to work independently of physicians, while others require a supervisory agreement. Delaware requires a collaborative agreement. Each nurse practitioner is assigned to a physician who acts as a consultant in more complex cases. The physician does not have to be physically present when the nurse practitioner sees patients, nor is he required to review or sign the charts.

Nurse practitioners provide primary, acute and specialty health care services similar to those of a physician and are qualified to meet the needs of the majority of patients' health care needs. Delaware law does not permit them to order home health services for their patients. But they have recently obtained permission to sign off on handicapped parking privileges for their patients.

Nurse practitioners work in a variety of settings. In Delaware, these include physician offices, hospitals, clinics, prisons, schools, urgent care centers, hospices and nursing homes. Wright, a nurse practitioner in the department of family medicine at Christiana Care Health System, works at Howard High School Wellness Center, the Ferris School and in her office at the Wilmington Senior Center. In the afternoons, she makes house calls to patients who are unable to make it to the office.

Visiting the sick and infirm in some of the most economically depressed areas of the city has been heartbreaking, she said. "The greatest challenge is

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poverty and that has been an amazing eye-opener for me," said Wright, 55, who has been a nurse practitioner for nine years. "The lack of services and the families having to take care of really, really sick people and being completely overwhelmed."

The atmosphere at Howard High's Wellness Center is a bit more upbeat. "It's really fun," she said. "I love teenagers. That's my favorite age group. I get to go to class and teach about STDs and stuff like that. I just talk their language and they have so many questions. There's so much educating that needs to be done."

Many nurse practitioners feel their ability to speak at the patient's level of understanding helps them establish a close rapport with their patients. "We're able to communicate on a level the patient understands," said Woods, 58, who has been a nurse practitioner for more than 20 years. "I don't think they feel as threatened with a nurse practitioner."

Although nurse practitioners can choose to practice in virtually any medical specialty, the majority elect to work in primary care. "That prepares them to work across the whole spectrum," said Mary Jo Goolsby, director of research and education for the American Association of Nurse Practitioners. "Over 70 percent of nurse practitioners function in primary care, which is a definite difference about our profession because other health care providers prefer going into subspecialties."

Nurse practitioners say they are filling a void for many Americans living in underserved areas. "We're providing primary care which is the biggest need," said Goolsby. "About 18 percent of nurse practitioners practice in rural areas where 20 percent of the U.S. population lives."

Still, nurse practitioners have had to struggle with some tough criticism from medical associations. Experts believe this position stems from a lack of awareness about nurse practitioners' capabilities and role in the delivery of health care.

"I think physicians are not well-trained to work with nurse practitioners," said Dr. Ina Li, a geriatrician at Christiana Care who works with two nurse practitioners. "During residency training, physicians don't interact a lot with nurse practitioners so when they are actually practicing in the real world, they're not sure what nurse practitioners do and they're wary about them. That's a real disservice to the

residents."

Indeed, the profession needs to advocate for the role it plays in providing high-quality, cost-effective, personalized health care, said Mary Nairn, president of the Delaware Coalition of Nurse Practitioners. A 2009 survey revealed that patients still have some misconceptions about the role nurse practitioners play in delivering care.

But attitudes are beginning to change. "I think more patients are familiar with nurse practitioners and are seeking us out as their health care providers," said Goolsby.

Physicians also are calling for a more cooperative relationship. A recent report by the Institute of Medicine states that nurse practitioners have a vital role to play in helping realize the goals of health care reform as 30 million Americans prepare to enter the system.

"Health care is a team sport anyway," said Goolsby. "A physician is as likely to ask me for my opinion as I'm going to ask for theirs, so I think that physicians who work with nurse practitioners really get confident in our ability and that we know where our limits are. It really becomes a good team."

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ABOUT NURSE PRACTITIONERS

Nurse practitioners are advanced practice registered nurses who provide health care services similar to those of doctors. Nurse practitioners diagnose and treat a wide range of health problems, stressing both care and cure. Besides clinical care, nurse practitioners focus on health promotion, disease prevention, health education and counseling.

The role of the nurse practitioner was created in 1965 at the University of Colorado in response to a nationwide shortage of primary care physicians. Today, there are about 140,000 practicing nurse practitioners. Between 8,000 and 9,000 are prepared each year. Most nurse practitioners hold master's degrees. There is a proposal to have the doctor of nursing practice required by 2015.

Nurse practitioners practice in a variety of settings and in virtually every specialty and subspecialty. They are licensed in all states and the District of Columbia and practice under the regulations of the licensing state. Patients make about 600 million visits to nurse practitioners each year.

Source: American Association of Nurse Practitioners

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