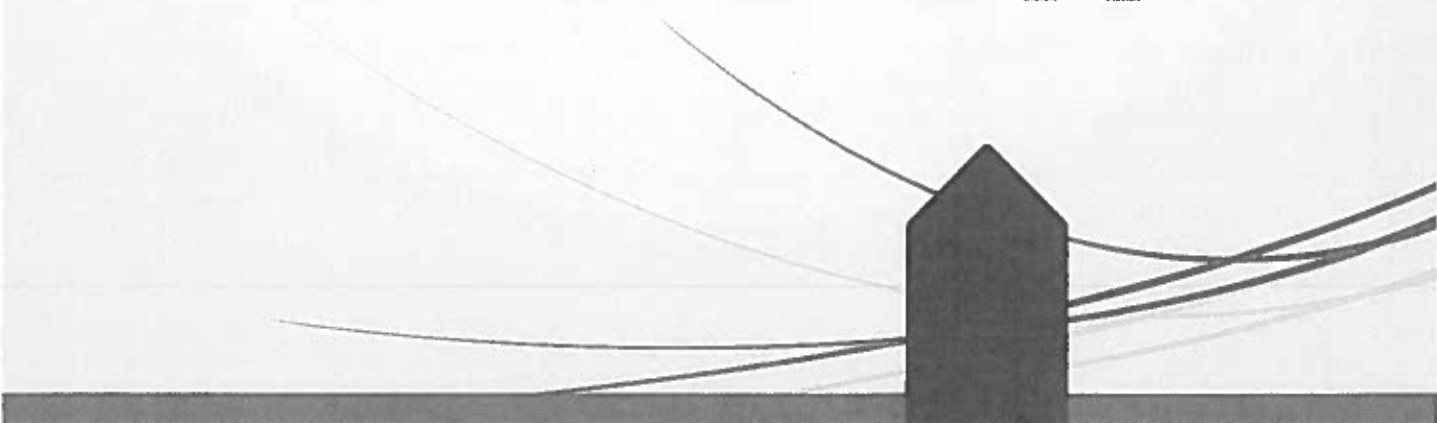




POMS Useful tools and practice pointers

Presented by

Debra Shifrin & Patricia McCabe

Why Do I Need This?

- Primary Source of Information Used by Social Security Employees to Process Claims
- Instructions with Technical Terms
- Refute State Agency Findings
- Provide Proof that Client Disabled

Where are the POMs?

- Google poms ssa and click on top link
- Type <https://secure.ssa.gov/apps10/poms.nsf/partlist> - Table of Contents Page
- Type <https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&restricttocategory=04> DI Disability Insurance Home Page
- Type <https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview&restricttocategory=05> SI Supplemental Security Income Home Page

Table of Contents

- ▶ RM – Records Maintenance
- ▶ GN – General
- ▶ RS – Retirement and Survivors Insurance
- ▶ DI – Disability Insurance
- ▶ SI – Supplemental Security Income
- ▶ HI – Health Insurance
- ▶ NL – Notices, Letters and Paragraphs
- ▶ VB – Special Veterans Benefits
- ▶ PR – Title II Regional Chief Counsel Precedents
- ▶ PS – Title XVI Regional Chief Counsel Precedents
- ▶ SL – State and Local Coverage Handbook

POMS Recent Changes



SI 01220 TN 50

Identifying Resources

- ▶ How to develop and document the resource status of trusts for SSI purposes
- ▶ Regional Centralization of SSI Trust Reviews
- ▶ Regional Trust Review Team (RTRT) reviews all trust resource determinations
- ▶ If Trust Established After January 1, 2000, does Trust contain assets of third parties?
- ▶ Is Trust revocable or irrevocable?
- ▶ Is Trust a resource?



DI 28015 TN 03

Relating Medical Improvement to the Ability to Work

- DI 28015.001 – Relating MI to Ability to Work
 - Do not consider any medical improvement that occurred to be related to the ability to do work unless you base an increase in the current RFC on changes in the symptoms, signs, and laboratory findings.
- DI 28015.003 – Policy When Certain Cases Require a Disability Redetermination
 - Referring to DI 28005.003 where Adult originally allowed as Title XVI child.

- DI 28015.005 – Two Mechanisms to Relate MI to the Ability to Work
 - If not change to MI at CPD, use earlier decision only to decide which mechanism applies.
 - If the basis for the CPD is unclear, carefully consider the basis code or vocational rule, presence or absence of an RFC assessment, or the evidence and circumstances.

- DI 28015.050 – Consideration of Prior Listing
 - When the impairment no longer meets or equals the CPD listing, as that listing appeared then, find MI related to ability to work.
 - When the impairment still meets or equals the listing, as that listing appeared then, find MI not related to ability to work.
 - Determine that disability continues, when no exceptions apply and MI does not relate to ability to work...
- DI 28015.055 – What is a Listing?
- DI 28015.060 – Prior Listing Mechanism and Changes in Symptoms, Signs or Laboratory Findings
 - Changes must be more than minor

- DI 28015.200 – Title II Beneficiary Now Over Age 18
- DI 28015.300 – General Approach to RFC Comparison in CDRs
 - Three types of RFCs: CPD RFC, medical improvement review standard (MIRS) RFC, and current RFC
 - MI is related to ability to work on if the beneficiary's RFC increased
 - Consider age and time on the rolls when assessing an RFC

- 
- DI 28015.310 – Considering Age and Time on the Rolls When Assessing RFC in CDRs
 - DI 28015.315 – Comparison Point Decision RFC
 - DI 28015.320 – RFC Comparison and Examples of MI Related and Not Related to the Ability to Work
 - Venous Insufficiency
 - Back impairment
 - DI 28015.850 – Types of RFC Assessments Needed
 - DI 28015.855 – RFC Form SSA-4734-BK

Obsolete Listings

- Special Senses and Speech Listings
 - DI 34122.005 05/24/02 to 02/19/07
 - DI 34122.007 02/20/07 to 08/01/10
 - DI 34122.009 08/02/10 to 04/28/13
- Neoplastic Diseases, Malignant Listings
 - DI 34133.007 12/15/04 to 06/15/08
 - DI 34133.009 06/16/08 to 11/04/09
 - DI 34133.011 11/04/09 to 07/19/15

- ▶ Digestive Listings

- ▶ DI 34225.007 12/18/07 to 06/11/15

- ▶ Genito-Urinary Listings

- ▶ DI 34226.007 12/09/14 to 06/11/15

- ▶ Cardiovascular Listings

- ▶ DI 34224.005 02/10/94 to 04/13/97

- ▶ DI 34224.007 04/14/97 to 01/01/01

- ▶ DI 34224.009 01/02/01 to 05/23/02

- ▶ DI 34224.011 05/24/02 to 04/12/06

- ▶ DI 34224.013 04/13/06 to 06/11/15

- ▶ Immune System Listings

- ▶ DI 34234.003 07/02/93 to 04/13/97
- ▶ DI 34234.005 04/14/97 to 02/18/02
- ▶ DI 34234.007 02/19/02 to 05/23/02
- ▶ DI 34234.009 05/24/02 to 06/15/08
- ▶ DI 34234.011 06/16/08 to 06/11/15

► Respiratory Listings

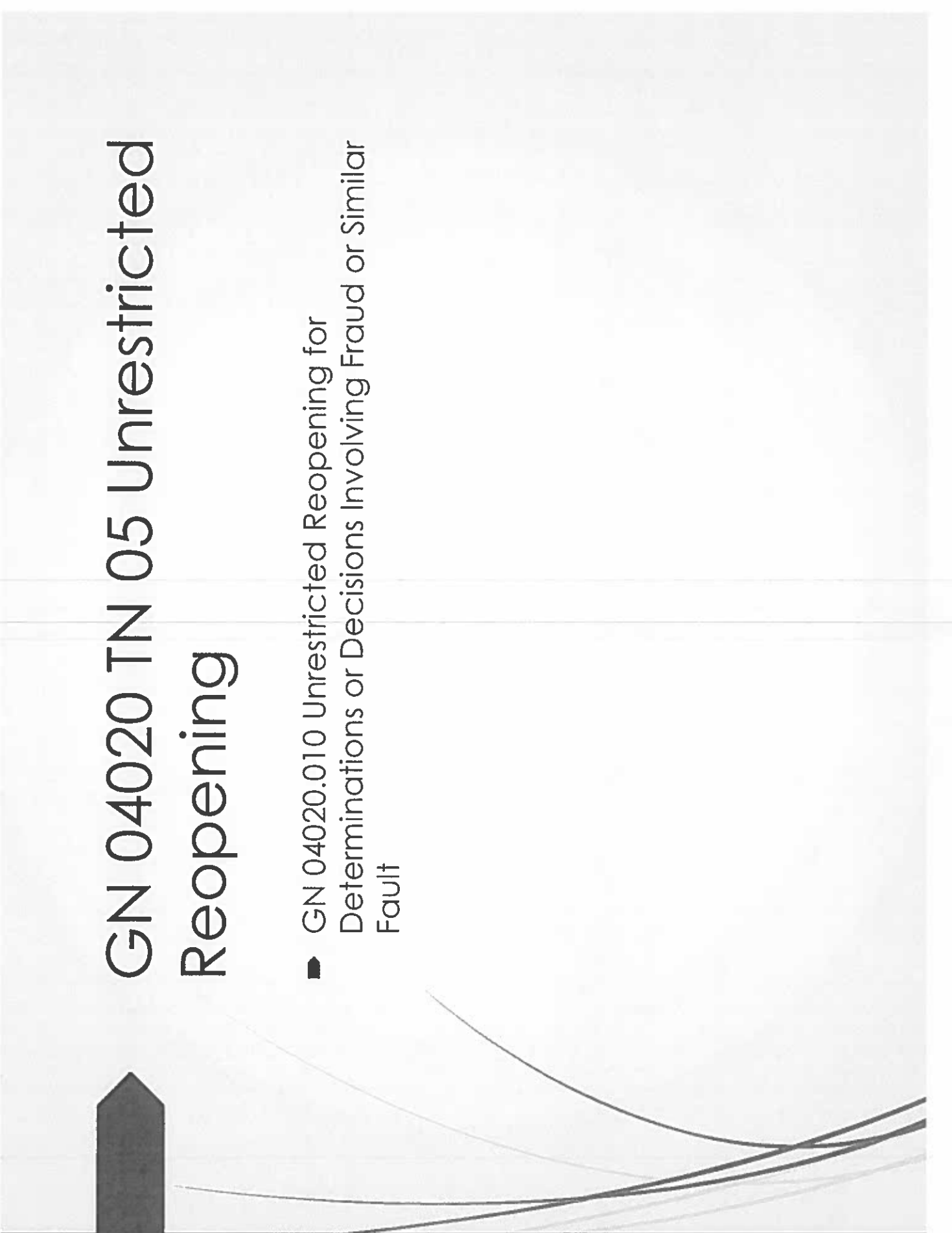
- DI 34223.005 10/07/93 to 04/13/97
- DI 34223.007 04/14/97 to 01/01/01
- DI 34223.009 01/02/01 to 05/23/02
- DI 34223.011 05/24/03 to 06/11/15



GN 00210 TN 22

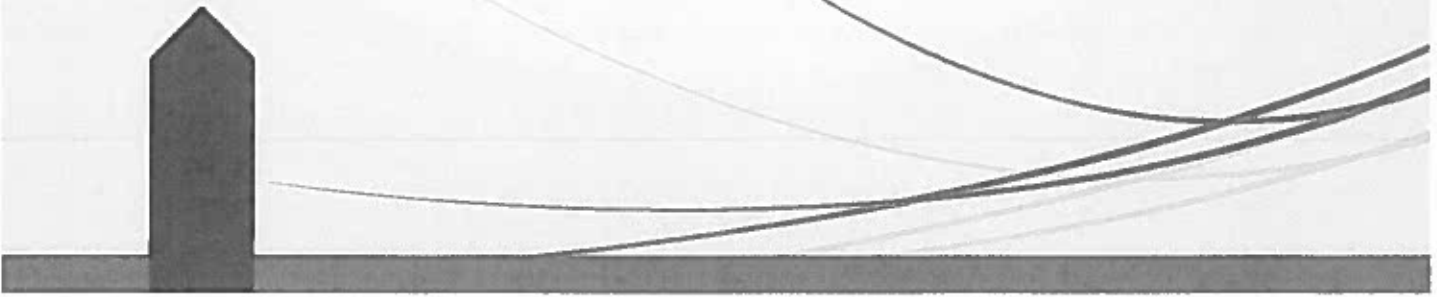
Windsor Same Sex Marriage Claims

- GN 00201-003 – Dates States Permitted or Recognized Same Sex Marriages
 - California 06/16/08 to 11/04/08 and 06/26/13 to present
 - Colorado 06/25/14 to 07/18/14 and 10/06/14 to present
 - New York 07/24/11
 - Georgia, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, Texas 06/26/15



GN 04020 TN 05 Unrestricted Reopening

- GN 04020.010 Unrestricted Reopening for Determinations or Decisions Involving Fraud or Similar Fault



Records Maintenance

- ▶ RM 020 Discrepant Wage Reports
- ▶ RM 025 Unidentified Earnings Items
- ▶ RM 038 Earnings Discrepancies

General

- GN 002 Applications and Interviews
- GN 003 Evidence
 - GN 00301.365 – Translation of foreign medical records
- GN 006 Use and Accountability of Benefits
 - GN 00602-100 Exchange of Information with the Department of Veterans Affairs – this is regarding misuse of benefits
- GN 030 Due Process Requirements

- ▶ GN 031 Appeals

- ▶ GN 03101.020 Good Cause for Extending the Time Limit to File an Appeal

- ▶ Good Cause Statement must be in writing and explain why the Claimant did not timely file

- ▶ Good Cause

- ▶ Circumstances impeded the Claimant's efforts to pursue his or her claim or appeal another issue
 - ▶ SSA or Medicare actions were confusing or misleading
 - ▶ Claimant did not understand the requirements of SSA
 - ▶ Claimant's physical, mental, educational, or linguistic limitations prevented him or her from timely filing an appeal
 - ▶ Claimant or representative were seriously ill
 - ▶ Claimant or representative requested additional information from SSA within requisite time period

- GN 039 Representation and Representative's Fee
 - GN 03930.010 Determining a Reasonable Fee under the Fee Petition Process
- GN 040 Administrative Finality
 - GN 04001.010 When and Why SSA Reopens
 - One year of the date of the notice of initial determination for any reason
 - Four years of the date of the notice of initial determination for good cause (GN 04010.001)
 - At any time GN 04020.001

- 
- GN 04010.001 Reopenings – Good Cause
 - Clerical Error
 - Error on the face of the evidence
 - New and material evidence
 - GN 04020.010 to GN 04020.110 Unrestricted Reopenings
 - Determinations or decisions involving fraud or similar fault
 - An adverse claim has been filed against the same earnings record
 - Determinations or decisions with respect to insured status
 - Criminal conviction affecting benefit rights

- GN 04001.090 Reopenings Appeal Rights
- GN 04001.100 Reopenings – Change in Ruling or Legal Interpretation
 - A change of position occurs when a policy or legal precedent previously adhered to is changed
 - All initial and appeal cases which are pending
 - All cases questions within 1 year of date of initial determination
 - All previously disallowed cases where a new application is filed
 - All cases previously awarded where an increase in the amount of the benefit results
 - All post-entitlement cases

Res Judicata

- GN 04040.010
 - Once an issue is decided it does not need to be decided again
 - If anything has changed, the adjudicator should not apply res judicata
 - Cannot apply to adjudicated periods

Fraud

■ GN 04440.009

Fraud occurs when a person and/or entity, with intent to defraud, either:

Makes or causes to be made a false statement or misrepresentation or a material fact for use in determining rights to Social Security benefits; or

Conceals or fails to disclose a material fact for use in determining rights to Social Security benefits.

■ GN 04020.010

Fraud exists when a person, with intent to defraud...



Retirement and Survivors Insurance

- RS 002 Benefits and Payments
- RS 003 Insured Status
- RS 006 Determination of PIAs and Benefit Amounts
- RS 022 Statute of Limitations
- RS 025 Annual Earnings Test



Supplemental Security Income

- ▶ SI 005 Eligibility
- ▶ SI 008 Income
- ▶ SI 011 Resources
- ▶ SI 013 Deeming
- ▶ SI 040 Administrative Review, Appeals and Finality - SSI

Health Insurance

- HI 004 Definitions
- HI 006 Covered Services
- HI 011 Medicare Income – Related Monthly Adjustment Amount
- HI 030 Eligibility for Subsidized Medicare Prescription Drug Coverage



Notices, Letters and Paragraphs

- ▶ NL 006 Beneficiary Notice Policies, Procedures and Cross References for Titles II and XVIII
- ▶ NL 007 Letters and Paragraphs for Title II, Title XVI, and Title XVIII
- ▶ NL 008 Notices for Title XVI

Special Veterans Benefits

- VB 00101.001 – Special benefits for WWII veterans
- VB 00102.001 – Qualification Requirements
 - 65 or older on December 14, 1999
 - WWII veteran
 - Eligible for SSI December 1999
 - Filed application for SVB
 - Eligible for SSI month in which files for SVB
 - Not have other benefit income that equals or exceeds 75% of the current SSI rate

DI – Disability Insurance

- DI 10501.015 Tables of SGA Earnings Guidelines and Effective Dates Based on Year of Work Activity
- DI 10520.001 Impairment Related Work Expenses
 - Does the alleged IRWE correlate with the person's disability; and
 - Does the person need the item and/or service to work; and
 - Has the person paid for the item and/or service; and
 - When can the IRWE be deductible and how can they be distributed?

- DI 12005.015 Late Filing of a Request for Reconsideration

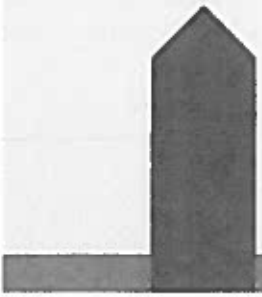
- Develop good cause
 - GN 03101.020 Good Cause (see earlier slide)
- If good cause is established – process
- If good cause is not established – dismiss
 - Claimant can re-file

► DI 13001.005 Events That May Initiate a CDR

- Medical review diary
- Current evidence required
- Trial work period diary
- Earnings record postings
- Voluntary reports
- Vocational Rehabilitation notification
- Report from someone in a position to know
- Additional evidence received
- Vocational re-examination diary
- Extended Period of Eligibility

- DI 13005.005 Basis for Deciding Continuance of Disability

- Continues unless the disabling condition has improved and individual can now engage in SGA
- Exceptions
 - Benefited from advances in medical or vocational therapy or technology and can engage in SGA
 - Did vocational therapy and can engage in SGA
 - Is not as disabled as was determined and can engage in SGA
 - Can engage in SGA and the prior decision was in error
 - Received a fraudulently obtained prior decision
 - Fails to follow prescribed treatment that could restore ability to engage in SGA

- 
- DI 12045.040 Death of Claimant – Reconsideration Level
 - Notify DDS and associate disability claims with the survivor claims
 - DI 12045.045 Death of Claimant – ALJ Hearing Level
 - Need to have substitute party
 - Copy of death certificate
 - DI 12045.050 Death of Claimant – AC Level
 - Notify AC and provide information and assistance to survivors or other eligible parties

- DI 22510.005 When to Purchase a CE
 - When case evidence is insufficient to evaluate the claim
 - To obtain evidence needed to resolve a conflict, inconsistency, or ambiguity in the evidence
- DI 22510.006 When Not to Purchase a CE
 - Meets a listing and will always meet the listing
 - Meets the requirements for certain Medical Improvement not Expected (MINE)
 - Do not purchase symptom validity tests (SVT) to address issues of credibility or malingering

- DI 24501.004 Medical Specialty Codes
- DI 24515.008 SSR 06-03p
 - Acceptable medical sources – licensed physicians, licensed or certified psychologists, licensed optometrists, licensed podiatrists, qualified speech language pathologists
 - Opinions from other medical sources who have seen the individual in their professional capacity should be evaluated by following factors:
 - How long source has known and how frequently seen
 - How consistent opinion is with other evidence
 - The degree to which the source presents relevant evidence
 - How well the source explains the opinion
 - Whether the source has a related specialty or area of expertise

- DI 26510.089 Medical Consultant/Psychological Consultant Signature Requirements for Disability Determinations

- Responsible for considering not only the total effect of a single impairment but also the combined effect of all impairments
- Signature needed to confirm the consultant's agreement with, and responsibility for, the medical assessment portion of the disability determination

- DI 27505.001 Conditions for Reopening a Final Determination or Decision

- 1 year from date of notice of initial determination for any reason
- 2 year from date of notice of initial determination for good cause – Title XVI
- 4 year from date of notice of initial determination for good cause – Title II
- At any time
 - Fraud or similar fault
 - Correct an error on the face of the evidence or clerical error



► DI 27536.005 Required Information for Reopening Initial Determinations

- Allegations
- Assessment of functional abilities
- Basis for determination
- Citation of jobs and incidence
- Duration of impairment
- Evidence of SGA
- Evidence sources
- Interpretation of medical findings
- Medical facts
- Pain related issues
- Resolution of conflicting treating source opinions
- Resolution of inconsistencies material to the determination
- Vocational rule used for medical-vocational determinations

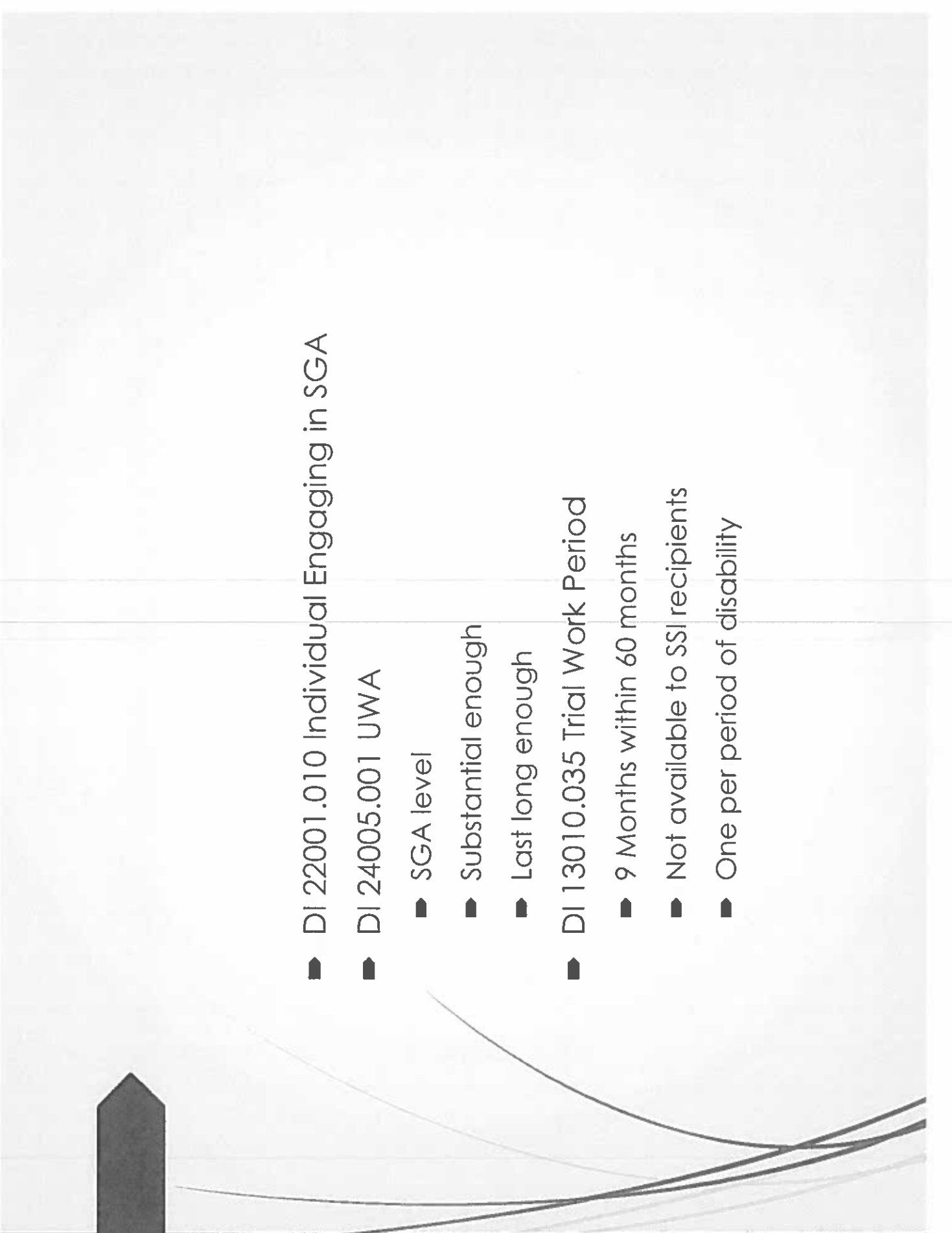
Sequential Evaluation

DI 22001.001



Step 1 – Is Client Working?



- 
- ▶ DI 22001.010 Individual Engaging in SGA
 - ▶ DI 24005.001 UWA
 - ▶ SGA level
 - ▶ Substantial enough
 - ▶ Last long enough
 - ▶ DI 13010.035 Trial Work Period
 - ▶ 9 Months within 60 months
 - ▶ Not available to SSI recipients
 - ▶ One per period of disability

DI 10520.010 IRWE

- Expense for an item or service which is directly related to enabling a person to work
- Necessarily incurred by that person
- May include payment for purchase, installation, maintenance, and/or repair
- Deductible amount subject to reasonable limits
- Includes
 - Attendant care
 - Medical Equipment
 - Residential Modifications
 - Routine Drugs and Services
 - Transportation Costs

Step 2 – Severe Impairment



DI 22001.015

- Significantly limit physical or mental ability to perform one or more basic work activity needed to do most jobs
 - Walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling
 - Seeing, hearing and speaking
 - Understanding, carrying out and remembering simple instructions
 - Use of judgment, responding appropriately to supervision, co-workers, and usual work situations; and dealing with changes in routine work setting



DI 22001.015

An impairment is not severe if it is a slight abnormality or a combination of slight abnormalities which would have no more than a minimal effect on the individual's physical or mental ability to perform basic work activities

DI 24505.003

Allegations of Pain

- Symptoms, such as pain, fatigue, shortness of breath, weakness, or nervousness, will not be found to affect an individual's ability to do basic work activities unless the individual first establishes by objective medical evidence (i.e., signs and laboratory findings) that he or she has a medically determinable physical or mental impairment(s) and the that impairment(s) could reasonably be expected to produce the alleged symptom(s).



DI 24505.003

Allegations of Pain

- Once requisite relationship established, the intensity, persistence, and limiting effects of the symptom must be considered along with the objective medical and other evidence in determining whether the impairment or combination of impairments is severe.

DI 24505.005

Evaluation of Medical Impairments that are NOT Severe

- ▀ A claim may be denied at step two only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe. If such a finding is not clearly established by medical evidence, however, adjudication must continue through the sequential evaluation process.

Step 3 – Do the Impairment(s) Meet or Equal a Listing?



Consultative Exams

- ▶ DI 22510.017 CE Appointment Notice
- ▶ DI 22510.019 CE Appointment Notice Follow up and Reminder
 - ▶ Claimant states he or she will not attend the CE
 - ▶ Claimant does not respond to CE appointment notice
- ▶ DI 24510.005 General Guidelines for RFC Assessment

Example of Listings of Impairments

- ▶ DI 24555.001 Interstitial Cystitis SSR 15-1p
- ▶ DI 24570.001 Evaluation of Obesity
- ▶ DI 24580.005 Evaluation of Narcolepsy
- ▶ Chapter DI 341 and DI 342 Obsolete Listings
- ▶ DI 90070.050 Adjudicating a Claim Involving Drug Addiction and Alcoholism (DAA)

Step 4 – Can the Claimant Perform Past Relevant Work?



- 
- DI 22001.025 Does the Individual have any impairment(s) which prevents PRW?
 - DI 25005.001 Determination of capacity for PRW
 - Functional Demands of PRW as performed by person or as performed in national economy
 - PRW in Foreign Country

DI 25001.001 Medical Vocational Quick Reference Guide

■ Accommodation	DOT worker function codes
■ Additional vocational adversities	Education
■ Age	Environmental conditions
■ Arduous Work	Environmental limitation
■ Atmospheric conditions	Exertional activity
■ Balancing	Exertional level
■ Borderline age issue	Exertional limitation
■ Carrying	Exposure to weather, etc
■ Climbing	
■ Color vision	
■ Composite Job	
■ Constantly	
■ Crawling	
■ Crouching	
■ Depth perception	

Step 5 – Are There Any Jobs the Claimant Can Perform?



- 
- ▶ DI 22001.030 Does the Individual's Impairment(s) Prevent Other Work?
 - ▶ DI 25015.020 RFC for Less than a Full Range of Sedentary SSR 96-9p
 - ▶ DI 25015.015 Work Experience
 - ▶ DI 25020.010 Mental Limitations
 - ▶ DI 25020.005 Physical Limitations
 - ▶ DI 25020.015 Environmental Limitations
 - ▶ DI 25025.001 Application of Grids
 - ▶ DI 25025.005 Using the Medical Vocational Guidelines

Miscellaneous POMS

- ▶ DI 23020.001 Priority Cases
 - ▶ Compassionate Allowances
 - ▶ Critical Cases
 - ▶ Dire Need Cases
 - ▶ Presumptive Disability
 - ▶ Homeless Cases
 - ▶ TERI
 - ▶ Military Service Casualty Cases
 - ▶ Quick Disability Determination Cases
- ▶ DI 23020.005 Critical Cases
 - ▶ Dire Financial Need
 - ▶ Non receipt or interruption of benefit checks that has caused a hardship
 - ▶ Adverse public relations potential

Questions???

