

12.15 ESTABLISHING DISABILITY FOR THE FOOD STAMP PROGRAM

A. INTRODUCTION

Disabled means that the individual is unfit to engage in full-time employment due to a physical and/or mental disability.

There are several different Food Stamp policies which require a determination of physical and/or mental disability. The way in which the disability is established varies, depending upon the policy for which the determination is being made. Some policies specify that only certain conditions establish disability. Others require a disability determination to be made by the Worker; this may be done with or without a physician's statement, depending upon the policy for which the determination is being made. The policies which require a disability determination are listed below, followed by a citation showing the location of the instructions for making such determinations.

- Asset policy in Section 11.3. Use item B below only.
- Student policy in Section 9.1,A,**2,f**. Use item B or C below.
- 24 month certification policy for elderly and/or disabled adults in Section 1.4,N,1. Use Item B below only.
- Work Requirement policy in Section 13.2,A. Use item B or C below.
- Elderly or Disabled provision for removal of the shelter/utility cap in Section 10.4,B,7. Use item B below only.
- Elderly or Disabled provision for use of net income test in Section 10.4,C,1. Use item B below only.
- GLF policy in Section 9.1,A,**3**. Use item B below only.
- Elderly and Disabled separate AG provision. See Section 9.1,A,1,**b,(1),(b)** for establishing disability. Use item B or C below.

B. ESTABLISHING DISABILITY WITHOUT A PHYSICIAN'S STATEMENT

Disability is established without a physician's statement as follows:

- The individual receives benefits from a governmental or private source, and these benefits are based on his own illness, injury or disability.

This includes, but is not limited to: Workers' Compensation, RSDI, SSI, Veteran's Administration benefits, Black Lung benefits, AFDC (incapacity),

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Medicaid (incapacity, blindness or disability), private insurance, sickness benefits, etc. However, if any of these conditions is questionable, such as a low percentage disability for VA benefits, a physician's statement may still be required.

For SSI and RSDI purposes, being certified for these benefits (approved, but not yet receiving payment, withheld to repay, etc.) is synonymous with receiving them.

- The individual is a veteran with a service-connected or non-service connected disability, rated or paid as total, under Title 38 of the United States Code.
- The individual is a veteran who is considered by VA to be in need of regular aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving spouse of a veteran considered by VA to be in need of aid and attendance, or permanently housebound, under Title 38 of the United States Code.
- The individual is a surviving child of a veteran and considered by VA to be permanently incapable of self-support, under Title 38 of the United States Code.
- The individual is a surviving spouse or child of a veteran, who receives or has been approved to receive, compensation for a service-connected death, or pension benefits for a non-service-connected death, under Title 38 of the United States Code and who has one of the following conditions:
 - Permanent loss of use of both hands, both feet, or one hand and one foot
 - Amputation of leg at hip
 - Amputation of leg or foot because of diabetes mellitus or peripheral vascular diseases
 - Total deafness, not correctable by surgery or hearing aid
 - Statutory blindness, unless due to cataracts or detached retina
 - IQ of 59 or less, which was established after attaining age 16

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- Spinal cord or nerve root lesions resulting in paraplegia or quadriplegia
- Multiple sclerosis in which there is damage of the nervous system because of scattered areas of recurring inflammation which has progressed to varied interference with the function of the nervous system, including severe muscle weaknesses, vision and speech defects, and paralysis.
- Muscular dystrophy with irreversible wasting of the muscles with a significant effect on the ability to use the arms and/or legs.
- Impaired renal function due to chronic renal disease, documented by persistent adverse objective findings, resulting in severely reduced function which may require dialysis or kidney treatment.
- Amputation of a limb, when current age is 55 or older

If the disability of the surviving spouse or child of the veteran is obvious to the Worker, no verification is required, but the Worker must record his findings. If the disability is not obvious to the Worker, verification must be provided from a physician, licensed or certified psychologist, surgeon, doctor of osteopathy, chiropractor, or other medically-qualified individual.

- Recipients of federal, state or local government disability retirement, who receive such benefits due to one of the conditions specified above. This includes, but is not limited to, payments under Civil Service Retirement (CSR) and Federal Employee Compensation Act (FECA).
- Those individuals who receive federally- or state-administered supplemental benefits under Section 1,616 (a) of the Social Security Act (optional state supplementation to SSI payments) provided that eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act or under Section 212 (a) or Public Law 93-66. West Virginia has no such program.
- Recipients of annuity payments, under Section 2, (a) ,(1), (iv) of the Railroad Retirement Act of 1974, who also have been determined eligible to receive Medicare under the Railroad Retirement Act.
- Recipients of an annuity payment, under Section (2), (1) ,(1), (v) of the Railroad Retirement Act of 1974, who have been determined to be disabled based on the criteria used under Title XVI of the Social Security Act

- Recipients of benefits from the following Medicaid coverage groups:
 - SSI-Related Medicaid **or M-WIN**
 - HCB Waiver
 - MR/DD Waiver
 - **CDCS**

C. ESTABLISHING DISABILITY WITH A PHYSICIAN'S STATEMENT

1. Definition Of Physician's Statement

The term physician's statement means a medical report from a licensed medical professional, including physicians, surgeons, doctors of osteopathy, chiropractors, etc.

2. Content Of The Physician's Statement

Generally, the statement must contain enough information to allow the Worker to determine if the client's condition renders him unfit for employment.

If the physician makes a definite statement that the client is permanently and totally disabled, no further information is needed. Usually, however, the physician describes the situation, and the Worker must make the determination. In these situations, the statement must contain:

- The type of condition, including the diagnosis if known
- Any unusual limitations the condition imposes on the client's lifestyle; and
- The length of time the condition is expected to last. This is required only to set a control for **re-evaluation**; there is no durational requirement for which the condition must exist or be expected to exist.

3. Making The Determination

Once the necessary information is received, the Worker makes the determination of unfitness for employment based on the following guidelines:

- If the condition is one listed in Appendix **C** as a guideline for presumptively approving an AFDC-Related Medicaid case, disability is established. No durational time limits are imposed.
- Any other condition must impose limitations on the client's normal way of life to qualify him as unfit for employment. For example, a case of hypertension, requiring only a special diet and daily medication, does not substantially alter an individual's way of life, since eating is part of his daily routine, and taking medication does not significantly interrupt normal activities. However, a diagnosis of hypertension requiring daily medication, special diet, frequent rest periods and avoidance of stress substantially limits a normal life style.