

Exhibit B



SOCIAL SECURITY

MEMORANDUM

Date: April 15, 2015

To: All Office of Appellate Operations Employees

From: Kelly Salzmann, Division Chief Administrative Appeals Judge /s/

Subject: Processing Guidance in Cases Involving Consultative Examiner Frank Chen, M.D.

Background

On December 30, 2013, the Disability Determination Service (DDS) for the State of California determined Dr. Frank Chen no longer authorized to perform consultative examinations (CEs) for its DDS CE panel. Dr. Chen was affiliated with four entities: Bay View Medical Clinic; Health Analysis, Inc.; Northstate Clinic; and Pacific Health Clinic, Inc. This action was premised in part on uncorrected deficiencies regarding the quality of his examination reports and the thoroughness of his examinations, which were the subject of corrective action letters dated September 2, 2011, and October 14, 2013.

While this situation primarily impacts Division I, all Divisions must be aware of this situation because cases may be transferred to other Divisions for workload assistance. Some cases now pending at the Appeals Council (AC) level contain reports from Dr. Chen decided at the hearing level before hearing level staff and adjudicators were advised of the above information. Please be aware that in some cases, an ALJ may have considered a CE report from Dr. Chen that is from a prior claim(s) file.

Guidance and Instructions

When applicable, Office of Appellate Operations (OAO) staff or adjudicators will add a Remark in the Appeals Review Processing System, noting that the case involves a report from Dr. Chen. If an alert identifying the case as containing a report signed by Dr. Chen has not been added in eView or a hearing level case alert sheet added to the cover of a paper claim(s) file, OAO staff will add an alert in eView or write in red ink "Special Attention - Report from Dr. Chen" on the blue Request for Review sheet (HA-741) on the cover of a paper claim(s) file.

When the AC acts on a request for review on a claim that includes a report from Dr. Chen, the AC will use the criteria in 20 CFR 404.970 and 416.1470 in determining whether there is a basis for granting review. Because Dr. Chen was removed from the CE panel effective December 30, 2013, if the AC adjudicates any case containing a report of examination performed on or after that date that the ALJ relied upon or cited in the decision, the AC must grant review.

However, in all other cases involving reports from Dr. Chen, the AC will rely on the record before it and adjudicate the issues in the claim on a case-by-case basis. Consider the following examples (not inclusive):

- The AC will grant review if the ALJ relied on an opinion from Dr. Chen, the record suggests there may be uncorrected deficiencies in the examination report or that the examination may not have been thorough, and, when giving appropriate weight (if any) to the opinion based on the facts of the case, the ALJ's action, findings, or conclusion is contrary to the weight of the evidence currently of record.
- The AC will grant review if it finds that the specific facts of the case suggest the claimant should have the opportunity to attend another CE.
- The AC will evaluate whether there is a basis for granting review if the ALJ specifically addressed in the decision that Dr. Chen is no longer authorized to perform CEs. The AC will consider the facts of the case and whether the ALJ appropriately addressed the weight given to the report from Dr. Chen under 20 CFR 404.1527 and 416.927.

Given the unique circumstances of this situation, if the AC determines a denial action is appropriate, the AC should include the following statement after any standard Document Generation System language relating to contentions or additional evidence. "We also considered issues relating to a consultative examination performed by Frank Chen, M.D., and found that based on the specific facts of this case, there is no basis for granting review."

If you have any questions, the staff contact in this matter is Appeals Officer Maren Weight at (703) 605-7327.