

Procedural Standard 98-1
March 19, 2007

TO: All Reviewers and Physician Advisors
FR: A.E. Adams, Ph.D., Director, Disability Evaluation Services
BY: Sherry Campanelli, Program Compliance Manager
RE: **Determining disability for applicants and recipients alleging drug and alcohol addiction (DAA) including “materiality.”**

Purpose: The purpose of this memorandum is to clarify the process for determining disability when drug and/or alcohol addiction (DAA) is involved. It further defines the case processing actions appropriate for both MassHealth and Department of Transitional Assistance (DTA) cases.

Background: Section 105 of Public Law 104-121, enacted March 29, 1996, prohibited title II and XVI disability entitlement/eligibility to individuals for whom DAA is a contributing factor material to the determination of disability. The Code of Massachusetts Regulations (CMR) 203.540, 203.545, 320.210 and 320.220 does not prohibit eligibility for DTA benefits when substance addiction disorder is a factor. For DTA cases, substance addiction disorder may be a component of disability when associated with other specified impairments.

Policy: **MassHealth cases:**

When drug and alcohol addiction have been alleged by the client and/or named by the client’s treating source as an impairment in combination with other complaints, the case should be completely worked up and all impairments should be reviewed and considered.

If an applicant is found **not disabled** (based on consideration of all impairments) at any point in the sequential process, the case must be denied.

If an applicant or recipient is found to be **disabled** at any point in the sequential process and there is medical evidence of DAA, a separate determination must be made regarding whether DAA is a contributing factor

Revision #4. Supersedes PS 98-1 “Determining Disability for Applicants and Recipients Alleging Drug and Alcohol Addiction, (DAA), i.e. Determining Materiality” originally issued July 15, 1998, first revision dated October 7, 2002 and second revision dated June 18, 2003 and third revision dated December 13, 2005.

material to the determination of disability. If DAA is found to be material, then the case is denied. If DAA is found not to be material to the decision, the claim remains an approval.

“Material” means that an individual would not be found disabled (based on his or her other impairments) if he or she stopped using drugs and/or alcohol. An individual cannot be considered to be disabled if DAA is a contributing factor material to his/her disability determination

“Not material” means that the individual would be found disabled independent of drug and/or alcohol abuse (i.e. based on his or her other impairments) even if he or she stopped using drugs and/or alcohol.

If the reviewer is **unable to determine** whether the individual is disabled independent of drug and/or alcohol abuse, then DAA is not material and the client is found disabled.

If the client is actively using substances but meets or equals an SSI Listing or is a vocational allowance based on impairments other than those in Listing 12.09, an assessment of “materiality” is not indicated.

If the client’s **only** impairment is DAA, then the case is found not disabled.

DTA cases:

When drug and alcohol addiction are present in combination with other complaints, the reviewer follows sequential analysis without considering “materiality.” DTA rules require that DAA may contribute to a finding of disability but only in combination with other impairments.

If the client’s **only** impairment is drug and alcohol addiction the claim must be denied.

Procedure: MassHealth cases:

For MassHealth cases where substance abuse is the **only** alleged impairment and where no treating sources are identified or no treating source information is available, the reviewer must attempt to contact the client by telephone (or by mail giving ten business days to respond from the date the letter is sent) to clarify the alleged impairment of substance abuse only. The results of this contact should be clearly documented in the DEScovery progress notes. If the client does not

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respond to attempts to contact him/her, the case is denied and coded 253 "failure to cooperate."

If substance abuse is the **only** documented impairment, the client is found not disabled and denial code 210 is used. Document "*Substance abuse in and of itself is not considered a disabling impairment.*" in the DEScovery progress notes and on the 12.09 Listings Form. A residual functional capacity form and vocational assessment is not needed.

If the client has a documented diagnosis of active substance abuse and meets/equals the associated SSI Listings noted in 12.09, the reviewer must assess "materiality" as above. Listing 12.09 documentation is completed for all cases that have substance abuse and an associated physical and/or mental impairment.

If the case cannot be approved based on meeting or equaling the SSI listings, the reviewer requests the Physician Advisor (PA) to do a physical and/or mental residual functional capacity (RFC) assessment, as applicable. The PA, in turn, assesses the client's limitations based on the information in file without consideration of the question of "materiality."

If the reviewer determines that the case is an approval based on the initial RFC, he/she must consider whether or not DAA is material to the finding of disability. If the reviewer is unable to determine if DAA is material to the finding of disability, the case is approved. If "materiality" is apparent, the reviewer requests the PA assess the functional limitations as if the client stopped using substances ("materiality" RFC). The reviewer then uses the "materiality" RFC to make the disability determination.

If the substance abuse is material to a decision of disabled, use denial code 240. The reviewer will document the "materiality" determination in DEScovery progress notes.

DTA cases:

DTA Medical Standard L(9) Substance Addiction Disorders is completed for all cases that have a physical and/or mental impairment(s) associated with substance abuse impairments. If substance addiction disorder is present with one or more other impairments, the review process proceeds without consideration of "materiality."

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Transitional Aid for Families with Dependent Children (TAFDC) cases

For TAFDC cases where substance abuse is the **only** alleged impairment and where no treating sources are identified or no treating source information is available, the reviewer must attempt to contact the client by telephone (or by mail giving ten business days to respond from the date the letter is sent) to clarify the alleged impairment of substance abuse only. The results of this contact should be clearly documented in the DEScovery progress notes. If the client does not respond to attempts to contact him/her, the case is denied and coded 253 "failure to cooperate."

If substance abuse is confirmed to be the TAFDC client's **only** impairment, the reviewer completes DTA Medical Standard L(9) documenting thereon and in DEScovery progress notes "*Substance abuse in and of itself is not considered a disabling condition.*" The reviewer must also include the "Mental RFC Worksheet-DTA Substance Addiction Only Cases" signed by an agency Psychiatrist or Psychologist Advisor which contains the following statements: "*Review of the record finds no evidence of any impairment other than substance abuse. Substance abuse, when it is the only impairment, is not considered disabling.*" The client is found not disabled and the case is closed as 210 "not severe."

Emergency Assistance to the Elderly, Disabled and Children (EAEDC) cases

For EAEDC cases where the EAEDC Medical Report received with the case and the Disability Supplement consistently document substance abuse as the **only** impairment, the reviewer completes DTA Medical Standard L(9) documenting thereon and in DEScovery progress notes "*Substance abuse in and of itself is not considered a disabling condition.*" The reviewer must also include the "Mental RFC Worksheet-DTA Substance Addiction Only Cases" signed by an agency Psychiatrist or Psychologist Advisor which contains the following statements: "*Review of the record finds no evidence of any impairment other than substance abuse. Substance abuse, when it is the only impairment, is not considered disabling.*" The client is found not disabled and the case is closed as 210 "not severe."

Summary: Substance addiction disorder as the sole impairment is not considered disabling for either MassHealth or DTA cases.

For MassHealth cases, substance abuse combined with other impairments requires the assessment of the “materiality” of drug and/or alcohol abuse if there is a finding of disability. If DAA is material to a MassHealth approval decision, then the individual is not disabled.

For DTA cases, determination of “materiality” is not a DTA program requirement. Therefore, if a DTA client’s impairment meets or equals a DTA Medical Standard or he/she is disabled on a vocational basis, the case is approved. “Materiality” of substance abuse is not addressed in DTA cases.

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