

United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

Tom Coburn, Ranking Minority Member

E X H I B I T S

Hearing On

Social Security Disability Programs: Improving the Quality of Benefit Award Decisions

September 13, 2012

United States Senate
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EXHIBIT LIST
Hearing On

***Social Security Disability Programs:
Improving the Quality of Benefit Award Decisions***

September 13, 2012

1. Documents relating to Alabama Case No. 64:
 - a. December 11, 2006 Report of Contact.
 - b. January 10, 2007 Consultative Exam.
 - c. Explanation of Benefits.
 - d. March 6, 2007 Medical Exam Record.
 - e. August 13, 2007 Medical Exam Record.
 - f. December 5, 2007 Medical Exam Record.
 - g. January 30, 2008 Medical Exam Record.
 - h. May 7, 2008 Medical Exam Record.
 - i. May 28, 2008 Hearing Transcript.
 - j. June 17, 2008 Notice of Decision-Fully Favorable.

2. Document relating to Alabama Case No. 65:
 - a. October 15, 2009 Notice of Decision-Fully Favorable.
 - b. December 8, 2008 Physical Summary Form.
 - c. Explanation of Determination.
 - d. October 9, 2008 Pharmacy Statement.
 - e. December 9, 2008 Psychiatric Review Technique Form.

3. Document relating to Alabama Case No. 67:
 - a. April 23, 2010 Notice of Decision-Fully Favorable .
 - b. February 6, 2007 Medical Exam Record.
 - c. January 28, 2007 Medical Exam Record
 - d. July 22, 2009 Medical Exam Record.
 - e. January 19, 2007 Medical Exam Record.
 - f. March 6, 2009 Medical Exam Record.
 - g. August 19, 2008 Medical Exam Record.
 - h. October 8, 2007 Medical Exam Record.
 - i. October 22, 2008 Medical Exam Record.
 - j. December 23, 2008 Medical Exam Record.
 - k. January 26, 2009 Medical Exam Record.
 - l. January 13, 2009 Vocational Rationale Form.
 - m. April 6 and 7, 2010 Medical Exam Records.
 - n. April 9, 2010 Hearing Transcript.

4. Document relating to Alabama Case No. 69:
 - a. September 2, 2008 Notice of Disapproved Claim.
 - b. September 26, 2008 Notice of Disapproved Claim.
 - c. Physical Residual Functional Capacity Form.
 - d. February 1, 2007 Excuse from Work.
 - e. July 18, 2008 Medical Exam Record.
 - f. September 10, 2008 Medical Exam Record.
 - g. October 10, 2008 Appointment of Representative and Fee Agreement.
 - h. October 10, 2008 Request for Hearing by Administrative Law Judge.
 - i. January 6, 2010 Clinical Assessment of Pain.
 - j. January 7, 2010 Hearing Transcript.
 - k. January 25, 2010 Notice of Decision-Fully Favorable.

5. Document relating to Oklahoma Case No. 102:
 - a. Mental Residual Functional Capacity Assessment.
 - b. Psychiatric Review Technique Form.
 - c. Medical Exam Record.
 - d. Explanation of Determination.
 - e. May 13, 2008 Hearing Transcript.
 - f. Notice Decision-Fully Favorable.

6. Document relating to Oklahoma Case No. 109:
 - a. April 25, 2008 Notice of Decision-Fully Favorable.
 - b. October 24, 2007 Medical Exam Record.

7. Document relating to Oklahoma Case No. 111:
 - a. September 22, 2005 Medical Exam Record.
 - b. October 6 and 14, 2005 Medical Exam Records.
 - c. January 24, 2008 Medical Exam Record.
 - d. February 28, 2006 Medical Exam Record.
 - e. March 6 and 27, 2006 Medical Exam Records.
 - f. May 22, 2006 Medical Exam Record.
 - g. February 21, 2007 Medical Exam Record.
 - h. March 22, 2007 Request for Reconsideration.
 - i. May 16, 2007 Function Report.
 - j. November 9, 2007 Letter.
 - k. December 26, 2007 Notice of Decision-Fully Favorable.

8. Document relating to Oklahoma Case No. 114:
 - a. January 4, 2008 Medical Exam Record.
 - b. July 30, 2008 Medical Exam Record.
 - c. July 31, 2008 Medical Exam Record.
 - d. August 5, 2008 Notice of Denial (Initial Application).
 - e. November 18, 2008 Medical Exam Record.

- f. December 23, 2008 Notice of Denial (Reconsideration).
 - g. April 21, 2009 Letter from Attorney.
 - h. May 21, 2009 Notice of Attorney Advisor Decision-Fully Favorable.
 - i. March 18, 2009 Physical Capacities Evaluation.
 - j. November 26, 2008 Medical Exam Record.
 - k. January 22, 2009 Letter.
 - l. July 24, 2008 Medical Exam Record.
 - m. September 4, 2008 Medical Exam Record.
 - n. October 14, 2008 Medical Exam Record.
9. Document relating to Oklahoma Case No. 134:
- a. October 22, 2010 Notice of Decision-Fully Favorable
 - b. December 15, 2004 Medical Exam Record.
 - c. January 5, 2005 Medical Exam Record.
 - d. February 9, 2005 Medical Exam Record.
 - e. April 14, 2005 Medical Exam Record.
 - f. April 21, 2005 Medical Exam Record.
 - g. May 5, 2005 Medical Exam Record.
 - h. May 12, 2005 Medical Exam Record.
 - i. May 19, 2005 Medical Exam Record.
 - j. June 9, 2005 Medical Exam Record.
 - k. June 16, 2005 Medical Exam Record.
 - l. June 23, 2005 Medical Exam Record.
 - m. July 19, 2005 Medical Exam Record.
 - n. August 11, 2005 Medical Exam Record.
 - o. August 29, 2005 Medical Exam Record.
 - p. September 2, 2005 Medical Exam Record.
 - q. January 5, 2006 Medical Exam Record.
 - r. July 13, 2006 Medical Exam Record.
 - s. September 21, 2006 Medical Exam Record.
 - t. October 16, 2006 Application for Disability Insurance Benefits.
 - u. December 12, 2006 Medical Exam Record
 - v. Explanation of determination.
10. Document relating to Oklahoma Case No. 151:
- a. October 22, 2010 Notice of Decision-Fully Favorable.
 - b. December 15, 2004 Medical Exam Record.
 - c. January 5, 2005 Medical Exam Record.
 - d. February 9, 2005 Medical Exam Record.
 - e. April 14, 2005 Medical Exam Record.
 - f. April 21, 2005 Medical Exam Record.
 - g. May 5, 2005 Medical Exam Record.

11. Document relating to Oklahoma Case No. 103: October 28, 2009 Notice of Decision-Fully Favorable.
12. Document relating to Oklahoma Case No. 118: October 10, 2008 Notice of Decision-Fully Favorable.
13. Document relating to Oklahoma Case No. 123: April 26, 2010 ALJ Bench Decision Checklist, Decision, and Hearing Transcript.
14. Document relating to Oklahoma Case No. 132: April 17, 2008 Notice of Decision-Fully Favorable.
15. Document relating to Oklahoma Case No. 166: December 4, 2007 Notice of Decision-Fully Favorable.
16. Documents relating to Virginia Case No. 249:
 - a. October 28, 2009 Medical Exam Record.
 - b. October 31, 2008 Notice of Disapproved Claim.
 - c. September 27, 2010 Medical Exam Record.
 - d. September 25, 2009 Medical Exam Record.
 - e. November 10, 2008 Medical Exam Record.
 - f. Disability Report Form 3368.
 - g. January 28, 2011 Notice of Decision-Fully Favorable.
 - h. June 16, 2010 Hearing Transcript.
17. Documents relating to Virginia Case No. 257:
 - a. Disability Report Form 3368.
 - b. April 15, 2009 Notice of Reconsideration.
 - c. April 9, 2009 Physical Residual Functional Capacity Form.
 - d. May 1, 2009 Request for Hearing by Administrative Law Judge.
 - e. January 7, 2010 Medical Exam Record.
 - f. May 19, 2010 Hearing Transcript.
 - g. May 28, 2010 Notice of Decision-Fully Favorable.
18. Documents relating to Virginia Case No. 278:
 - a. August 29, 2006 Notice of Disapproved Claim.
 - b. April 4, 2007 Notice of Reconsideration.
 - c. September 26, 2006 Medical Exam Record.
 - d. February 7, 2007 Medical Exam Record.
 - e. April 4, 2007 Psychiatric Review Technique Form.
 - f. April 2, 2007 Request for Medical Advice and Physical Residual Functional Capacity Assessment.
 - g. April 24, 2008 Notice of Decision-Fully Favorable.
 - h. January 25, 2008 Hearing Transcript.

19. September 14, 2011 Social Security Directive from Douglas S. Stults, Hearing Office Chief Administrative Law Judge to W. Howard O'Bryan, Jr., Administrative Law Judge, Oklahoma City, OK.
20. *Office of Appellate Operations, Executive Director's Broadcast*, August 19, 2011.
21. *Office of Appellate Operations, Executive Director's Broadcast*, January 13, 2012, highlights top reasons ALJ opinions have errors.
22. Social Security Administration Powerpoint, *Fiscal Year 2011, Final Actions Report, Division of Quality*, February 8, 2012.

◆ ◆ ◆

REPORT OF CONTACT

(Use ink or typewriter)

ACCOUNT NUMBER AND SYMBOL

[REDACTED]

TO:

NE MAT SE GL WN MAM
 ODO OIO DDS

NAME OF WAGE EARNER OR SE PERSON

[REDACTED]

PERSON(S) CONTACTED AND ADDRESSES WE OR SE PERSON OTHER (Specify)

CONTACT MADE:

DO BO CS HOME PHONE: OTHER

DATE OF CONTACT

12/11/2006

SUBJECT INITIAL CLAIMANT CONTACT FORM

12/5/-6 CALLED FOR ICC NO ANSWER, SNET LETTER

- A. Name: Correct, (x) Yes () No
- B. Address: Correct, (x) Yes () No
- C. Phone Number: Correct, (x) Yes, () No, () No Phone
- D. Third Party name, address, phone number in file: (X) Yes, () No,
If not in file, list third party contact here:

E. Representative Information:

II. Confirm alleged disabling conditions, symptoms, functional restrictions:

- (x) Covered in file
- () Additional Information: **low back pain, no surgery**
BROKE LEFT LEG OVER 20 YRS AGO, IT HURTS

III. Confirm treatment sources, dates, tests, x-rays, medication, etc., include future treatment and identify any sources not previously reported:

- A. (X) No new information identified
- B. () New Information **HAVE NOT SEEN A DOCTOR IN OVER 5-6 YRS**

IV: The following information was discussed with the claimant or applicant: YES

(1) The role of the disability specialist; (2) General claim information such as name, address, phone number, contact sources; (3) Illnesses, injuries or conditions and functional effect(s); (4) Treatment sources; (5) The date work first stopped due to alleged illnesses, injuries or conditions and any work since filing; (6) The Social Security Administration's definition of disability and general Social Security program requirements; (7) The possibility of an examination(s) to document the case; (8) Appeal rights; (9) Cooperation during the disability claim process

V: Other information provided: YES

(1) Circumstances the claimant or applicant should call; (2) The telephone number and extension; (3) A letter will be sent confirming this phone contact.

SIGNATURE

[REDACTED]

DISTRICT OFFICE (Name, Address & Code)

CR FR SR CLAIMS CLERICAL
 OTHER (Specify)

DATE OF REPORT

12/11/2006

PAGE 1 OF 1

DISABILITY DETERMINATION SERVICE

CLAIM [REDACTED]

Client SSN: [REDACTED]

INT/CON

RE: [REDACTED]

DOB [REDACTED]

Phone: [REDACTED]

Date of Appointment: January 10, 2007

TDN [REDACTED]

[REDACTED] presented for examination on January 10, 2007. She was asked to describe her present medical problems and she replied, "My low back has been bothering me for about two years. It bothers me about every second or third day." (There was no injury.) "Sometimes I can hardly lift anything. Sometimes it feels like there's a light burning sensation there." (There are no radiculopathies.) "When the pain comes on it lasts for about 20 minutes to 30 minutes. I don't need any kind of medicine."

"I broke my left ankle about 20 years ago, when I slipped and fell when I was going into a home to clean it. I had surgery on my left ankle. If I do a lot of walking, it bothers me then. When I do a whole lot of walking it may swell."

Past History: Left ankle surgery. Gravida III, para III - children aged 40 years, 39 years and 37 years - all normal pregnancies and deliveries. No other surgeries or hospitalizations.

Allergies: None known.

Medications: None.

Family History: Mother died at the age of 57; she was on dialysis and had IDDM. She has no knowledge of her father's health status. One sister died at the age of 59; she had some type of cancer.

Functional Enquiry: All other systems were negative.

Social History: She had been married for 40 years. She lives with her husband in a trailer which they own. She last worked in 1996, doing [REDACTED] in a [REDACTED]. She worked there for five years. "I was told there was no more work for me there to do, and they let me go. I didn't look for any work after that. I could've worked but I didn't." Prior to working at the dance studio she did domestic work for seven years.

Her husband receives a social security disability check of \$670 a month. He has HT and DM. She receives food stamps in the amount of

\$139 a month.

She went to school to grade 9. She can read and write "a little."

She smokes two packs of cigarettes a day and drinks about two ounces of gin a day. She claims that she used to use marijuana when she was younger but not recently.

She likes to cook. She loves to go fishing, play dominoes, sew, watch TV - especially the soap operas - and work in her vegetable and flower gardens.

On Examination: She stood 62" tall. She weighed 160 pounds. Her blood pressure was 130/80. Visual assessment using Snellen chart at 20 feet, without glasses: right eye, 20/50; left eye, 20/40; both eyes, 20/25. With glasses: right eye, 20/25; left eye, 20/20; both eyes, 20/20. PERLA. Fundi, negative.

[REDACTED] was examined in the presence of our nurse.

She presented with a straight cane in her right hand which was determined not to be required indoors and probably not outside, either. She was asked why she used it and she said, "It's to balance myself." She admits that she has never fallen.

She sat comfortably in the chair, virtually in the same position, for about one and a half hours; she did not appear to be in any distress.

She had a tendency to be very evasive, contradictory, and to exaggerate. She did not appear to be a credible historian.

She wore a short brown wig with blonde highlights. She wore a white short-sleeved T-shirt, blue jogging pants, and white tennis shoes. She stood up from sitting with ease and moved about with reasonable agility. She wore bifocal glasses. She had very poor oral hygiene, with foul breath. Only three very carious teeth remain, with only a small portion of each of those remaining teeth just at or above the gumline.

Chest: Clear to A and P. There were no rales and no rhonchi. There was no prolonged expiratory phase. RR, 12 per min. There was no pulmonary impairment.

CVS: PR, 72 per min RSR. There were no murmurs audible. A few veins were noted, mostly on the left leg, but none were prominent and none were tortuous. There were no stasis changes. All peripheral pulses were palpated. There was no peripheral edema. Her feet were warm and of normal color. The skin of her feet appeared healthy.

GIT: Her abdomen was soft. There were no abnormal masses palpated. There was no tenderness to palpation.

Extremities: There was a full range of motion of her head and neck, her shoulder joints, her elbow joints, her wrist joints, her knee joints, and her right ankle joint. Range of motion of the left ankle joint: dorsiflexion, 15 degrees; plantar flexion, 35 degrees; inversion, 25 degrees; eversion, 15 degrees. Back flexion, 110 degrees. She could touch her toes with her knees straight. Back extension, 25 degrees. Left hip flexion, 120 degrees; extension, 25 degrees.

She walked with a fairly brisk, reasonably coordinated gait, without her cane. She could walk on her heels and toes and squat fully and arise with ease and without any support.

CNS: She was alert and well orientated as to time, place and person. Her recent and remote memory were intact. Cranial nerves II through XII were normal. Sensory exam, normal to all modalities. Motor exam, normal throughout. Cerebellar function, normal. Tone, normal and equal. Deep tendon reflexes were symmetric and equal.

The strength of her major muscle groups including those of her shoulder and pelvic girdles, those of the proximal and distal portions of her upper and lower limbs, her hand grip strength and finger dexterity, were all rated as 5 out of 5. She could make a fist with each hand; she could oppose the thumb to the fingers of each hand. She could button and unbutton clothes, tie shoelaces, pick up small objects, hold a glass, turn a doorknob, etc.

There was no paraspinous cervical, dorsal or lumbar muscle tenderness or spasm.

There were no trigger points palpated across her upper, mid- or low back.

There was no joint which was red, hot, swollen or tender.

There was a vertical scar 3½" long at the medial aspect of her left ankle, and a vertical scar 5½" long at the lateral aspect of her left ankle.

She had dark red chipped nail polish on her fingernails.

X-ray of L-S spine, A-P and lat. (P and I):

The bony structures are intact with no evidence of fracture or degenerative lipping. The intervertebral discs are well maintained in height. The hips and sacroiliac joints are normal.

RE: [REDACTED]

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Summary: Normal A-P and lateral lumbar spine.

The medical evidence of record provided by the DDS was reviewed, and those findings were considered in the overall assessment of [REDACTED] e [REDACTED]. Based on the medical findings of this examination, I would conclude that she could perform work-related activities such as sitting, standing, walking, lifting, carrying and handling objects, with some minor limitations. There is no problem with hearing or speaking, and she could travel a reasonable distance.

Yours truly,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
B.SC.PHM [REDACTED], M.D. [REDACTED], D.A.B.D.C.
Diplomate of the American Board of Disability Consultants

PNG:ao

EXPLANATION OF DETERMINATION

Name of Claimant	W/E's Name (If CDB or DMB)	SSN	Type of Claim
[REDACTED]	[REDACTED]	[REDACTED]	INDI

The evidence listed was used in evaluating your claim.

In addition to the reports listed, information that you and others provided about how your condition(s) affects your ability to function was considered.

We have determined that your condition is not severe enough to be considered disabling. In deciding this, we considered the medical records, your statements and how your condition affects your ability to work.

You state that you are disabled because of having pain in your back and left leg. It has been determined that your medical condition does not significantly affect your ability to carry out most routine activities. Since your ability to work is not significantly affected, you do not meet the requirements for disability benefits.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

In evaluating this claim, we have considered and agree with the opinions and comments about the condition(s) considered for disability benefits given by the treating doctor/consulting physician.

[REDACTED]
[REDACTED]
[REDACTED]

PATIENT: [REDACTED]

DATE: 03/06/2007

SUBJECTIVE: Hx of headache, last worked in 5 years. Having some low back pain.

OBJECTIVE: Weight 152. BP _____. Lungs are clear. CV normal. Abdomen benign. Extremities normal. Neuro unchanged.

ASSESSMENT:

1. Hypertension, grade 4.

PLAN: Clonidine 0.2 given, BP down to 170/80. Clonidine 0.2 hs, Benicar 20/12.5. F/U in 6-8 weeks. Encourage compliance, awaiting disability.



PATIENT: [REDACTED]

DATE: 08/13/2007

SUBJECTIVE: History of HTN, OA. On clonidine 0.2 hs, Benicar 40/12.5, colchicine 0.6 daily, is having some low back pain. Missed blood pressure meds past 2 days.

OBJECTIVE: VS: BP 160/100. Lungs are clear. CV normal. Abdomen benign. Extremities stable. Neuro stable.

ASSESSMENT:

1. HTN.
2. OA.

PLAN: Clonidine 0.2 was given. Clonidine 1/2 tablet in the morning, one at night. Benicar 20/12.5, colchicine 0.6. F/U in 2 months or prn.

[Signature]

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
PATIENT [REDACTED]

DATE: 12/05/2007

SUBJECTIVE: History of hypertension, gouty arthritis. On clonidine 0.2, Benicar 40/12.5, colchicine 0.6 daily, Lortab 7 nightly. Doing well, no chest pain, shortness of breath, PND, orthopnea. Echocardiogram showed ejection fraction 55%.

OBJECTIVE: VS: Stable. Weight 161, blood pressure 190/90. Lungs are clear. CV normal. Abdomen benign. Extremities - Stable. Neuro stable.

ASSESSMENT:

1. Hypertension, uncontrolled.

PLAN: Add Lopressor 50 mg 1/2 tablet bid, discuss side effects, colchicine 0.6 daily, and clonidine 0.2. F/U in 2 months or prn.



[REDACTED]

[REDACTED]
[REDACTED]

PATIENT: [REDACTED]

DATE: 01/30/2008

SUBJECTIVE: Patient complaining of poor appetite. Hx of hypertension. On clonidine 0.2. Benicar 40/12.5, colchicine 0.6 mg daily, Lortab 7 nightly. Doing well, no chest pain, SOB.

OBJECTIVE: VS - Weight 158, BP 150/80. Lungs are clear. CV normal. Abdomen - benign. Extremities - Stable. Neuro stable.

ASSESSMENT:

1. Hypertension.
2. Gout.

PLAN: Put on Periacin 4 mg q day, clonidine 0.2 one in the morning, one at night, Benicar 40/12.5, colchicine 0.6 daily, Lopressor bid. Follow up in 6 to 8 weeks or prn. Lab data next time.



[REDACTED]

PATIENT: [REDACTED]

DATE: 05/07/2008

SUBJECTIVE: Hx of OA, HTN. On clonidine 0.1, Benicar daily, Lortab 7, Lopressor bid. Doing better.

OBJECTIVE: VS: Stable. LUNGS: Clear. CV: Normal. ABDOMEN: Benign.
EXTREMITIES: Stable.

ASSESSMENT:

1. OA.
2. HTN.

PLAN: Continue clonidine 0.2, Benicar daily, colchicine 0.6, Lortab 7 mg daily, Lopressor bid. F/U in 6 weeks, awaiting disability.

SOCIAL SECURITY ADMINISTRATION
OFFICE OF DISABILITY ADJUDICATION AND REVIEW

TRANSCRIPT

In the case of

Claim for

[REDACTED]
(Claimant)

Supplemental Security Income

[REDACTED]
(Wage Earner) (Leave blank
in Title XVI Cases or if
name is same as above)

[REDACTED]
(Social Security Number)

Hearing Held

at

[REDACTED]
(City, State)

on

May 28, 2008

[REDACTED]
(Month, Day, Year)

by

Vincent P. Intoccia

[REDACTED]
(Administrative Law Judge)

APPEARANCES:

[REDACTED], the Claimant
[REDACTED], Attorney for Claimant
[REDACTED], Vocational Expert

INDEX OF TRANSCRIPT

In the case of:

Account Number

[REDACTED] Claimant

[REDACTED] 183

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Testimony of [REDACTED] commencing

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(The following is a transcript in the hearing held before Vincent P. Intoccia, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on May 28, 2008 at Selma, Alabama, in the case of [REDACTED], Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED] Attorney. Also present was [REDACTED] Vocational Expert.)

(The hearing commenced at 11:27 a.m. on May 28, 2008.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: We'll go ahead and open the claim of [REDACTED], Social Security Number [REDACTED]. Claimant's present, her representative, [REDACTED] (Phonetic). We have [REDACTED] as the VE. And we'll let the record show that this is actually an e-file hearing but it's a little different in that this case is unpulled or unworked. So although we have everything hopefully in the right place as far as the, the record, we don't have any numbers on these exhibits since they're unpulled. And in addition we also have some new exhibits from Bourne (Phonetic) Regional, goes into the F Section. We also have a De Qui Sequi that goes into the D Section. Any objection, question, comments about any of those exhibits, [REDACTED]

ATTY: No, sir, Your Honor.

ALJ: We'll go ahead then and admit into the record starting with the section entitled Payment Documents Decisions. We have two 831 forms, both received at 1/19/07. The next section is Jurisdictional Documents Notices. We start out with [REDACTED]'s resume, it's receipt dated 5/23/08 through the concurrent L442 form, receipt dated 1/19/07. In the current Development and Temporary we have no exhibit. Non-disability Development, we'll scan in the De Qui Sequi after the

hearing. The Disability Related Development, we have a medication form undated, receipt dated 5/23/08 through the Field Office Disability Report, the 3367, receipt dated 12/4/06. The Medical Records, we start out with _____ receipt date 5/23/08 through the CE from _____ (Phonetic), receipt dated 1/19/07.

(Exhibits, previously identified, were received into evidence and made a part of the record thereof.)

ALJ: Did you have a separate opening, _____

ATTY: No, sir.

ALJ: And I don't have any questions for _____ unless you do?

ATTY: I don't.

ALJ: Swear you in, _____ Can we enter the traditional stipulations for the VE?

ATTY: Yes, sir.

ALJ: Is there anything else you need to know, Doctor?

VE: No, sir.

(The Vocational Expert, _____ having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Could you identify the jobs that _____ performed during the period at issue by job title, exertional, and skill level?

A Yes, sir. She worked as a _____ light, unskilled.

Q No transferable skills?

A No, sir.

Q Consistent with the DOT?

A It is.

Q Let's assume a hypothetical individual, same vocational profile as [REDACTED] and let's assume someone with a full range of sedentary. Could someone in that situation do that one past job?

A No, sir.

ALJ: Thank you, Doctor. Questions, [REDACTED]

ATTY: No, sir.

ALJ: You've had the opportunity to look over the ALJ Bench Decision Check Sheet?

ATTY: Yes, sir, I have.

ALJ: Any objection, question, comment?

ATTY: No, sir.

ALJ: We'll go ahead and admit that into Section A of the claim file. We'll have to scan it in after the hearing. And based upon a review of the available evidence of record it appears that a wholly favorable Bench Decision can be issued in this particular claim pursuant to Grid Rule 201.01. There are no other jobs that the Claimant can perform that exist in the national and/or regional economy in significant numbers based upon her Residual Functional Capacity of a full range of sedentary, as coupled with her vocational profile during the period at issue. She's fully insured for Title II purposes through December 31st, 2007. And her onset date is November 22nd, 2006. In addition a more detailed explanation is also found within the ALJ Bench Decision Check Sheet, which is adopted by

reference herein. This concludes the hearing. Thank you. Thank you,
Ma'am.

CLMT: Thank you.

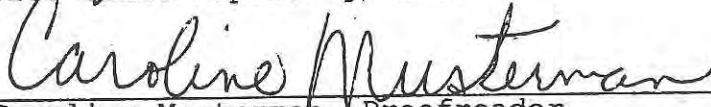
(The hearing closed at 11:39 a.m. on May 28, 2008)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge Vincent P. Intocchia.



Nancy L. Kayser, Transcriber
Free State Reporting, Inc.



Caroline Musterman, Proofreader
Free State Reporting, Inc.



Refer T [REDACTED]

Office of Disability Adjudication and Review
3381 Atlanta Highway
Montgomery, AL 36109-2746

Date: JUN 17 2008

[REDACTED]

NOTICE OF DECISION — FULLY FAVORABLE

I have made a fully favorable decision in your case. My decision is based on your period of disability, disability insurance benefits, and supplemental security income applications filed on November 22, 2006. The component responsible for processing my decision must decide that you meet the non-medical requirements for supplemental security income payments.

I announced the basis for my decision at the hearing held on May 28, 2008. I adopt here those findings of fact and reasons.

To summarize briefly, I found you disabled as of November 22, 2006, because of gouty arthritis, hypertension, urinary tract infections, and osteoarthritis so severe that you are unable to perform any work existing in significant numbers in the national economy.

If you want more information about my decision, you or your representative should file a written request for this information at any local Social Security office or a hearing office. Please include the Social Security number shown above on your request. If you ask for it, we will provide you with a record of my oral decision at the hearing.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another office may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

Permanent Subcommittee on Investigations

EXHIBIT #1j

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you or your representative must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time To File An Appeal

To file an appeal, you must file your request for review within 60 days from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time To Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider with your request for review.

How An Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulations exists. Section 404.970 and 416.1470 of the regulation list these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal And No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (334) 875-0587. Its address is Social Security, 120 Executive Park Lane, Selma, AL 36701.



Vincent P. Intoccia
Administrative Law Judge

JUN 17 2008
Date

cc: [redacted]
[redacted]
[redacted]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

[REDACTED]
(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

[REDACTED]
(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise accepted. I neither approve nor disapprove any other aspect of the agreement.

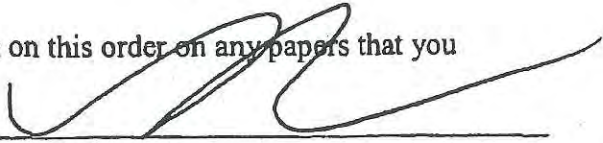
YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Regional Chief Administrative Law Judge
SSA ODAR Regional Office
Suite 20t10
61 Forsyth Street SW
Atlanta, GA 30303

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

You should include the social security number(s) shown on this order on any papers that you send us.



Vincent P. Intoccia
Administrative Law Judge

JUN 17 2008

Date

CC:



Oral Decision Script

Part 1

After entering this wholly favorable oral decision into the record of hearing, I may issue a written decision that incorporates the oral decision by reference. However, I may not incorporate by reference my oral decision if I determine that it is necessary to change the oral findings or rationale in any way after today's hearing. If a change is necessary, I will issue a full-length written decision.

On November 22, 2006, the claimant protectively filed a Title II application for a period of disability and disability insurance benefits. The claimant also protectively filed a Title XVI application for supplemental security income on November 22, 2006. In these applications, disability is alleged beginning on November 22, 2006. These claims were denied initially and the claimant filed a request for hearing on March 8, 2007.

I am holding a hearing on May 28, 2008, in Selma, AL. _____, an impartial vocational expert, has also appeared. The claimant is represented by _____, a non-attorney representative.

The issues are whether the claimant is disabled under sections 216(i) and 223 of the Social Security Act; whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met; and whether the claimant is eligible for supplemental security income based on disability under sections 1602 and 1614(a)(3)(A) of the Social Security Act.

Part 2

The claimant has been disabled under the Social Security Act since November 22, 2006, the alleged onset date of disability.

The claimant met the insured status requirements of the Social Security Act on this date.

The claimant has not engaged in substantial gainful activity since the established onset date. The claimant has not worked for pay or profit after this date.

The claimant has the following severe impairment(s) or combination of impairments: gouty arthritis, hypertension, urinary tract infections, and osteoarthritis.

The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1.

The claimant has the residual functional capacity to perform less than the full range of sedentary work.

The claimant has past relevant work but the claimant's residual functional capacity is

inconsistent with the demands of this work as actually and normally performed. Accordingly, the claimant is unable to perform past relevant work.

Once the claimant has established that she has no past relevant work or cannot perform any past relevant work because of her impairments, the burden shifts to the Commissioner to show that there are jobs existing in significant numbers in the national economy which the claimant can perform, consistent with her medically determinable impairments, functional limitations, age, education, and work experience.

The claimant was of advanced age on the date disability is established.

The claimant has a limited education.

The claimant has an unskilled work background.

Considering the claimant's age, education, work experience, and residual functional capacity, no jobs exist in significant number in the national economy that the claimant could perform. This conclusion is based on direct application of Medical-Vocational Rule 201.01.

Part 3

Based on the application for a period of disability and disability insurance benefits protectively filed on November 22, 2006, the claimant has been disabled under sections 216(i) and 223 of the Social Security Act beginning on November 22, 2006.

Based on the application for supplemental security income protectively filed on November 22, 2006, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act beginning on November 22, 2006.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

ALJ Bench Decision Checksheet - Print Version

Claimant Name: [REDACTED]

Application Date: 11-22-06 Title: (S)2+10 Hearing Date: 5-28-08

Date Last Insured: 12-31-07 Date First Insured: _____

Established Onset Date: 11-22-06

Prior Application Reopened Not Reopened N/A

Prior Application Date(s): T2 _____ SSI _____

Date of Initial Determination: T2 _____ SSI _____

Reason for Recpending: Within one year Grounds for reopening at any time

Good cause/new and material evidence (within 2 or 4 years) _____

Work After Onset None

UWA

TWP (See 20 C.F.R. §§ 404.1592(d)(2)(iii) and (iv).)

Not SGA

Severe Impairment(s) (singly or in combination):

h tn

Gouty Arthritis

UTI

OA

Impairment(s) MEET Listing: # _____ N/A

Impairment(s) EQUAL Listing: # _____ ME _____ N/A.

Testimony/ _____

Interrogatories: _____

Section A

Mental Impairment Analysis: _____/for Listings _____

Restriction of Activities of Daily Living None Mild Moderate Marked Extreme

Difficulties Maintaining Social Functioning None Mild Moderate Marked Extreme

Difficulties Maintaining Concentration-Pace None Mild Moderate Marked Extreme

Episodes of Decompensation None One or two Three Four or More

Part C Limit'ns (2 yrs med. hist. & more than minimal limitation) (12.02, 12.03, 12.04) Yes No

_____ Residual disease process with marginal adjustment so that minimal changes cause

decompensation

_____ Current history 1+years in highly supportive living arrangement with continuing need for same

_____ Repeated episodes of decompensation, each of extended duration

12.06: Specify limitations:

Residual Functional Capacity/Physical - Exertional and Non-exertional Limitations*1 Sed _____ Lt. _____ Med. _____ Hvy.

Mental Residual Functional Capacity*2:

_____ SEE AS ATTACHED HEREIN: _____ +1 N/A and _____ +2 N/A.

Past Relevant Work:

_____ HOUSEKEEPER - LT - UNSK - NO TRANS.

_____ CONSISTENT WITH THE DOT = YES.

Unskilled No transferable skills/ _____ Semi-skilled No

Transferable skills _____ Semi-skilled _____ Skilled / _____ Transferable Skills

Not Material _____ / _____

Medical-Vocational Rule # 201.01 Directs

Medical-Vocational Rule # _____ Framework VE Testimony = No Jobs

Social Security Ruling # _____

Rationale for Decision (Include assessment of credibility and medical source opinion):

Pursuant to Hypo 1 (Full range of SED), the CL is entitled to a Step 5 pending, via GRID Rule: 201.01

Recommend Representative Payee N/A

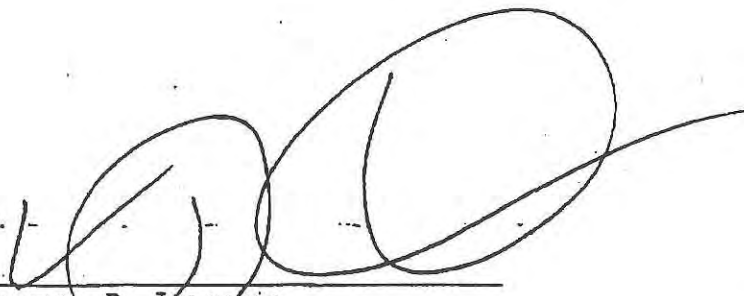
Medical reexamination in N/A year(s) Other recommendations: _____

Evidence of Workers Compensation Claim/Payment/Disability Insurance Payment/VA Benefits/Disability Retirement N/A

Fee Agreement Approved. Representative Name: _____

Fee Agreement Denied. Reason: N/A

Other: No testimony from the CL needed.



Vincent P. Intoccia
Administrative Law Judge

5-28-87
Date

**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated January 9, 2009 (20 CFR 404.929 *et seq.* and 416.1429 *et seq.*). The evidence of record supports a fully favorable decision; therefore no hearing has been held (20 CFR 404.948(a) and 416.1448(a)). The claimant is represented by _____ an attorney.

The claimant is alleging disability since August 15, 2008.

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2012. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from August 15, 2008 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is

disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is

not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. **The claimant's date last insured is December 31, 2012.**
2. **The claimant has not engaged in substantial gainful activity since August 15, 2008, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).**
3. **The claimant has the following severe impairment(s): cervical spondylosis, fibromyalgia, tension headaches, migraine headaches and history of depression with anxiety (20 CFR 404.1520(c) and 416.920(c)).**

The above impairment(s) causes more than minimal functional limitations.

4. **The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).**

The claimant has the following degree of limitation in the broad areas of functioning set out in the disability regulations for evaluating mental disorders and in the mental disorders listings in 20 CFR, Part 404, Subpart P, Appendix 1: mild restriction in activities of daily living, mild difficulties in maintaining social functioning, moderate difficulties in maintaining concentration, persistence or pace, and no episodes of decompensation, each of extended duration.

5. **The claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) and 416.967(a) except for those job functions that are outside of the parameters of [REDACTED] assessment as noted below.**

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-6p and 06-3p.

[REDACTED] shows a history of treatment of the claimant. On October 30, 2008, the claimant was treated for and diagnosed with chronic tension headaches and fibromyalgia.

[REDACTED] pain specialist, reflects treatment of the claimant since 2008. He provided claimant with cervical injections due to cervical spondylosis. On February 16, 2009, he opined that claimant can lift and/or carry up to ten pounds occasionally or less frequently, sit for three to

four hours during an 8-hour workday; and stand and walk for two to three hours during an 8-hour workday. _____ stated that the claimant is unable to perform pushing and pulling movements, climbing and balancing, bending and/or stooping movements or reaching. He opined that pain is present to such an extent to be distracting to the adequate performance of daily activities or work. It is also noted that physical activity, such as walking, standing, sitting, bending, stooping, and moving of extremities greatly increase pain to such a degree as to cause distraction from task or total abandonment of task. He further stated that the drug side effects can be expected to be severe and limit effectiveness due to distraction, inattention, drowsiness.

Medical records from _____, neurologist, also reflect history of migraine headaches and depression with anxiety.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical consultant's physical assessment and psychological consultant's mental assessment are given little weight because another medical opinion is more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants.

Pursuant to 20 CFR 404.1527(d)(2) and 20 CFR 416.927(d)(2) and Social Security Ruling 96-2p, generally more weight is given to the opinions from treating sources. If the treating source's opinion on the issue of severity of impairment is well supported by medical evidence, it is given controlling weight. Further, the Eleventh Circuit has held that an Administrative Law Judge must accord substantial weight to the opinion of the claimant's treating physician unless good cause is shown to the contrary. Broughton v. Heckler, 776 F.2d 960 (11th Cir. 1985). In this case, _____ opinion is supported by medical evidence.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565 and 416.965).

The demands of the claimant's past relevant work exceed the residual functional capacity.

7. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563 and 416.963).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564 and 416.964).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568 and 416.968).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c), 404.1566, 416.960(c), and 416.966).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the additional limitations so narrow the range of work the claimant might otherwise perform that a finding of "disabled" is appropriate under the framework of this rule. This conclusion is supported by Social Security Ruling(s) 96-8p.

11. The claimant has been under a disability as defined in the Social Security Act since August 15, 2008, the alleged onset date of disability (20 CFR 404.1520(g) and 416.920(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on September 26, 2008, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since August 15, 2008.

Based on the application for supplemental security income protectively filed on September 26, 2008, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since August 15, 2008.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 18 months.

/s/ Charles A. Thigpen

Charles A. Thigpen
Administrative Law Judge

October 15, 2009

Date

PHYSICAL SUMMARY

SSN:

[REDACTED]

NAME:

A [REDACTED]

DATE

12/08/2008

Case rating: 02

35 yo woman alleges intractable migraine. TP neurologist I [REDACTED] indicates CI prescribed 1.5 g. Keppra and Inderal 160 mg daily. Inderal started one year ago. In the past 10 months CI has obtained a 2 month supply of Inderal and there is no indication in the pharmacy print out of CI ever obtaining the Keppra. These drugs are intended as preventive therapy and body of evidence in MER indicates very poor compliance in treatment. CI was due back for follow up 9/08 and as of 10/23/08 receipt of TP records CI had not returned for follow up.

THESE FINDINGS COMPLETE THE MEDICAL PORTION OF THE DISABILITY DETERMINATION

SIGNATURE

[REDACTED]

SPECIALTY

20

PAGE 1 OF 1

Permanent Subcommittee on Investigations

EXHIBIT #2b

EXPLANATION OF DETERMINATION

NCD

Name of Claimant	W/E's Name (If CDB or DMB)	SSN	Type of Claim
[REDACTED]	[REDACTED]	[REDACTED]	INDIB

The evidence listed was used in evaluating your claim. Additional reports were not obtainable.

[REDACTED] INC Report Received 10/29/08
[REDACTED] Report Received 10/20/08
[REDACTED] Report Received 10/23/08
[REDACTED] R Report Received 10/23/08
[REDACTED] C Report Received 11/05/08
[REDACTED] OF Report Received 10/21/08
[REDACTED] R LLC Report Received 11/05/08

In addition to the reports listed, information that you and others provided about how your condition(s) affects your ability to function was considered.

We have determined that your condition is not severe enough to be considered disabling. In deciding this, we considered the medical records, your statements and how your condition affects your ability to work.

You state that you are disabled because of migraines and depression. It has been determined that your medical condition does not significantly affect your ability to carry out most routine activities. Since your ability to work is not significantly affected, you do not meet the requirements for disability benefits.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

Patient: [REDACTED] 0000
Statement Date Beginning 06/01/2007, Ending 10/29/2008

Rx #	Doctor	Drug	NDC	Qty	Written	Fill Date	Refill	Price	Tax
1863450	[REDACTED]	ALPRAZOLAM TABS .25MG	00781-1061-10	60	06/14/2007	06/14/2007	0 *****4.57	0.00	
	Insurance #1: BCBS	Authorization number: 071654422663004999							
1857365	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	05/17/2007	06/22/2007	1 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 071735249827001999							
1868972	[REDACTED]	ALPRAZOLAM 0.5MG GENEVA	00781-1077-10	60	07/10/2007	07/10/2007	0 *****5.09	0.00	
	Insurance #1: BCBS	Authorization number: 071916138188006999							
1857365	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	05/17/2007	07/16/2007	2 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 071974953652008999							
1863450	[REDACTED]	ALPRAZOLAM TABS .25MG	00781-1061-10	60	06/14/2007	07/16/2007	1 *****4.57	0.00	
	Insurance #1: BCBS	Authorization number: 071974955825003999							
1857366	[REDACTED]	AMBIEN CR 12.5MG TABLETS	00024-5521-31	30	05/17/2007	07/19/2007	2 130.25	0.00	
1857363	[REDACTED]	HCTZ 12.5MG CAPSULES	00591-0347-01	30	05/17/2007	07/25/2007	1 *****7.10	0.00	
	Insurance #1: BCBS	Authorization number: 072065749741005999							
1868972	[REDACTED]	ALPRAZOLAM 0.5MG GENEVA	00781-1077-10	60	07/10/2007	07/30/2007	1 *****5.09	0.00	
	Insurance #1: BCBS	Authorization number: 072116096808008999							
1875783	[REDACTED]	HYDROCODONE & APAP 10/500MG	00591-0540-05	30	08/08/2007	08/08/2007	0 *****6.49	0.00	
	Insurance #1: BCBS	Authorization number: 072205367197006999							
1875782	[REDACTED]	MAXALT 10MG TAB (12'S)	00006-0267-12	9	08/08/2007	08/08/2007	0 *****33.66	0.00	
	Insurance #1: BCBS	Authorization number: 072205361001004998							
1876714	[REDACTED]	PROMETHAZINE 25MG*GENEVA	00591-5307-10	30	08/13/2007	08/13/2007	0 *****13.70	0.00	
	Insurance #1: BCBS	Authorization number: 072254296439002999							
1857365	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	05/17/2007	08/17/2007	3 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 072293047967005999							
1863450	[REDACTED]	ALPRAZOLAM TABS .25MG	00781-1061-10	60	06/14/2007	08/17/2007	2 *****4.57	0.00	
	Insurance #1: BCBS	Authorization number: 072293050259005999							
1857365	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	05/17/2007	09/04/2007	4 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 072476742506006999							
1863450	[REDACTED]	ALPRAZOLAM TABS .25MG	00781-1061-10	60	06/14/2007	09/06/2007	3 *****4.57	0.00	
	Insurance #1: BCBS	Authorization number: 072495184440003999							
1883492	[REDACTED]	ZONISAMIDE CAP 100MG	60505-2547-01	60	09/08/2007	09/08/2007	0 *****21.47	0.00	
	Insurance #1: BCBS	Authorization number: 072515571442004999							
1885098	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	09/14/2007	09/14/2007	0 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 072575122398005999							
1885097	[REDACTED]	HYDROXYZINE 50MG TABS	16714-0083-04	60	09/14/2007	09/14/2007	0 *****15.00	0.00	
	Insurance #1: BCBS	Authorization number: 072575115861008998							
1868972	[REDACTED]	ALPRAZOLAM 0.5MG GENEVA	00781-1077-10	60	07/10/2007	09/23/2007	2 *****5.09	0.00	
	Insurance #1: BCBS	Authorization number: 072665124943006999							
1857365	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	05/17/2007	09/23/2007	5 *****4.10	0.00	
	Insurance #1: BCBS	Authorization number: 072665126158007999							
1890684	[REDACTED]	ZOLPIDEM 10MG TABS	60505-2605-08	15	10/05/2007	10/05/2007	0 69.50	0.00	
1883492	[REDACTED]	ZONISAMIDE CAP 100MG	60505-2547-01	60	09/08/2007	10/11/2007	1 *****21.47	0.00	
	Insurance #1: BCBS	Authorization number: 072844572241004999							
1863450	[REDACTED]	ALPRAZOLAM TABS .25MG	00781-1061-10	60	06/14/2007	10/11/2007	4 *****4.57	0.00	
	Insurance #1: BCBS	Authorization number: 072844573876008999							

Patient: [REDACTED] 0000
 Statement Date Beginning 06/01/2007, Ending 10/29/2008

Rx #	Doctor	Drug	NDC	Qty	Written	Fill Date	Refill	Price	Tax
1892555	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	09/28/2007	10/12/2007	0 *****4.10	0.00	
Insurance #1: BCBS		Authorization number: 072855178532003999							
1895229	[REDACTED]	HYDROCODONE & APAP 10/500MG	00591-0540-05	30	10/22/2007	10/22/2007	0 *****6.49	0.00	
Insurance #1: BCBS		Authorization number: 072956706973006999							
1897255	[REDACTED] LAH	PROPRANOLOL LA 60MG CAPS	49884-0282-01	30	10/30/2007	10/30/2007	0 *****15.00	0.00	
Insurance #1: BCBS		Authorization number: 073034710025007999							
1897256	[REDACTED]	MAGNESIUM OXIDE 400MG	68585-0006-12	60	10/30/2007	10/30/2007	0 9.75	0.00	
1898662	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	10	11/05/2007	11/05/2007	0 *****2.70	0.00	
Insurance #1: BCBS		Authorization number: 073094301130008999							
1901018	[REDACTED] AH	TEMAZEPAM 15MG CAPS (15)	00378-4010-01	30	11/13/2007	11/13/2007	0 23.75	0.00	
1901104	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	11/13/2007	11/13/2007	0 *****4.10	0.00	
Insurance #1: BCBS		Authorization number: 073176201155005999							
1902696	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	11/20/2007	11/20/2007	0 *****4.10	0.00	
Insurance #1: BCBS		Authorization number: 073243026448003999							
1907911	[REDACTED]	PROPRANOLOL LA 120MG CAPS	49884-0329-01	30	12/10/2007	12/11/2007	0 *****15.00	0.00	
Insurance #1: BCBS		Authorization number: 073454498960002999							
1907912	[REDACTED]	MIGRANAL NS 4MG/ML BCT	00187-0245-03	1	12/10/2007	12/11/2007	0 *****63.76	0.00	
Insurance #1: BCBS		Authorization number: 073454503128007997							
1912928	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	01/02/2008	01/02/2008	0 *****4.31	0.00	
Insurance #1: BCBS		Authorization number: 080025175550008999							
1912929	[REDACTED]	AMOXICILLIN 500MG CAPS*	63304-0655-05	21	01/02/2008	01/02/2008	0 *****3.85	0.00	
Insurance #1: BCBS		Authorization number: 080025176666007999							
1914074	[REDACTED]	PCM LA TABS	60258-0280-01	14	01/07/2008	01/07/2008	0 *****7.29	0.00	
Insurance #1: BCBS		Authorization number: 080073576821007999							
1912929	[REDACTED]	AMOXICILLIN 500MG CAPS*	63304-0655-05	21	01/02/2008	01/14/2008	1 *****3.85	0.00	
Insurance #1: BCBS		Authorization number: 080145230958006999							
1912928	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	01/02/2008	01/22/2008	1 *****4.31	0.00	
Insurance #1: BCBS		Authorization number: 080225189855005999							
1924017	[REDACTED]	TEMAZEPAM 15MG CAPS (15)	00378-4010-01	30	02/08/2008	02/08/2008	0 23.50	0.00	
1909207	[REDACTED]	IMITREX 0.5ML 2s REFILL	00173-0478-00	1	12/15/2007	02/11/2008	0 *****35.80	0.00	
Insurance #1: BCBS		Authorization number: 080423079684001999							
1926935	[REDACTED]	AMOXIL/CLAV 875/125 TABS	63304-0509-01	14	02/18/2008	02/18/2008	0 *****15.00	0.00	
Insurance #1: BCBS		Authorization number: 080496318981006999							
1912928	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	30	01/02/2008	02/21/2008	2 *****4.31	0.00	
Insurance #1: BCBS		Authorization number: 080522954318007999							
1937417	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	28	03/26/2008	03/26/2008	0 *****4.16	0.00	
Insurance #1: BCBS		Authorization number: 080863911448002999							
1937924	[REDACTED]	PENTERMINE HCL 30 MG	00185-5000-01	15	03/28/2008	03/28/2008	0 19.50	0.00	
1909207	[REDACTED]	IMITREX 0.5ML 2s REFILL	00173-0478-00	1	12/15/2007	03/28/2008	1 *****37.86	0.00	
Insurance #1: BCBS		Authorization number: 080886696070004999							
1943107	[REDACTED]	PENTERMINE HCL 30 MG	00185-5000-01	15	04/16/2008	04/16/2008	0 15.22	0.00	
1943266	[REDACTED]	DOXYCYCLINE 100MG CAPS *	00172-2985-70	20	04/17/2008	04/17/2008	0 *****3.76	0.00	
Insurance #1: BCBS		Authorization number: 081083820539005999							
1943267	[REDACTED]	HYDROCODONE/APAP 5/500	00591-0349-05	16	04/17/2008	04/17/2008	0 *****3.41	0.00	

Patient: [REDACTED]
 Statement Date Beginning 06/01/2007, Ending 10/29/2008

Rx #	Doctor	Drug	NDC	Qty	Written	Fill Date	Refill	Price	Tax
Insurance #1: BCBS		Authorization number: 081083837954001999							
1948674	[REDACTED]	CLONAZEPAM 0.5MG TABLETS	00093-0832-10	20	05/07/2008	05/07/2008	0	*****3.76	0.00
Insurance #1: BCBS		Authorization number: 081284196144002999							
1949001	[REDACTED]	TEMAZEPAM 30 MG (15)	00781-2202-01	12	05/08/2008	05/08/2008	0	15.00	0.00
1948999	[REDACTED]	BUTAL/ASP/CAF 50/325/40 TABS	00143-1785-01	12	05/08/2008	05/08/2008	0	*****5.30	0.00
Insurance #1: BCBS		Authorization number: 081294455673004999							
1950324	[REDACTED]	INNOPRAN XL 120MG CAPSULES	65726-0251-10	30	05/13/2008	05/13/2008	0	*****50.00	0.00
Insurance #1: BCBS		Authorization number: 081347013757003999							
1951668	[REDACTED]	CLONAZEPAM 1MG TABLETS	00093-0833-10	30	05/19/2008	05/19/2008	0	*****5.49	0.00
Insurance #1: BCBS		Authorization number: 081406725151001999							
1951668	[REDACTED]	CLONAZEPAM 1MG TABLETS	00093-0833-10	30	05/19/2008	06/11/2008	1	*****5.49	0.00
Insurance #1: BCBS		Authorization number: 081633108045002999							
1958637	[REDACTED]	MEPERIDINE 50MG (60)	00054-6595-25	12	06/17/2008	06/17/2008	0	*****7.54	0.00
Insurance #1: BCBS		Authorization number: 081695141004009999							
1950324	[REDACTED]	INNOPRAN XL 120MG CAPSULES	65726-0251-10	30	05/13/2008	06/25/2008	1	*****50.00	0.00
Insurance #1: BCBS		Authorization number: 081774010308006999							
1949001	[REDACTED]	TEMAZEPAM 30 MG (15)	00781-2202-01	12	05/08/2008	06/28/2008	1	15.00	0.00
1962040	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	07/01/2008	07/01/2008	0	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 081836168464008999							
1962038	[REDACTED]	CLONAZEPAM 1MG TABLETS	00093-0833-10	30	07/01/2008	07/01/2008	0	*****5.49	0.00
Insurance #1: BCBS		Authorization number: 081836170498003999							
1962040	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	07/01/2008	07/14/2008	1	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 081965684101001999							
1966682	[REDACTED]	ALPRAZOLAM TABS 1MG GENEVA	00781-1079-10	60	07/21/2008	07/21/2008	0	*****6.15	0.00
Insurance #1: BCBS		Authorization number: 082036208633008999							
1966680	[REDACTED]	HCTZ 25MG	00603-3856-32	30	07/21/2008	07/21/2008	0	*****4.38	0.00
Insurance #1: BCBS		Authorization number: 082036210047002999							
1966683	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	07/21/2008	07/31/2008	0	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 082137037052007999							
1966685	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	07/21/2008	08/13/2008	1	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 082266649714001999							
1966682	[REDACTED]	ALPRAZOLAM TABS 1MG GENEVA	00781-1079-10	60	07/21/2008	08/22/2008	1	*****6.15	0.00
Insurance #1: BCBS		Authorization number: 082357023385003999							
975573	[REDACTED]	TOBRADEX 3.5g o o	00065-0648-35	1	08/27/2008	08/27/2008	0	*****30.00	0.00
Insurance #1: BCBS		Authorization number: 082406724065006999							
976125	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	08/29/2008	08/29/2008	0	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 082426298337008999							
966682	[REDACTED]	ALPRAZOLAM TABS 1MG GENEVA	00781-1079-10	60	07/21/2008	09/23/2008	2	*****6.15	0.00
Insurance #1: BCBS		Authorization number: 082676190398003999							
982623	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	09/25/2008	09/25/2008	0	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 082696175451001999							
982623	[REDACTED]	HYDROCOD/ACET 7.5/500 (60)	00603-3882-28	20	09/25/2008	10/23/2008	1	*****3.54	0.00
Insurance #1: BCBS		Authorization number: 082974442845007999							
966682	[REDACTED]	ALPRAZOLAM TABS 1MG GENEVA	00781-1079-10	60	07/21/2008	10/23/2008	3	*****6.15	0.00

Patient: [REDACTED] 0000

Statement Date Beginning 06/01/2007, Ending 10/29/2008

Rx #	Doctor	Drug	NDC	Qty	Written	Fill Date	Refill	Price	Tax
1990066	Insurance #1: BCBS	ZOLPIDEM 10MG TABS	60505-2605-08	20	10/27/2008	10/27/2008	0	15.00	0.00
Totals								\$978.07	\$0.00

Pharmacist:

Store:

Federal tax ID:

Service Provider ID:

[REDACTED]

PSYCHIATRIC REVIEW TECHNIQUE

Name [REDACTED]	SSN [REDACTED]
NH (if different from above)	SSN - -

I. MEDICAL SUMMARY

A. Assessment is from: _____ to _____

B. Medical Disposition(s):

1. No Medically Determinable Impairment
2. Impairment(s) Not Severe
3. Impairment(s) Severe But Not Expected to Last 12 Months
4. Meets Listing _____ (Cite Listing)
5. Equals Listing _____ (Cite Listing)
6. RFC Assessment Necessary
7. Coexisting Nonmental Impairment(s) that Requires Referral to Another Medical Specialty
8. Insufficient Evidence

C. Category(ies) Upon Which the Medical Disposition is Based:

1. 12.02 Organic Mental Disorders
2. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders
3. 12.04 Affective Disorders
4. 12.05 Mental Retardation
5. 12.06 Anxiety-Related Disorders
6. 12.07 Somatoform Disorders
7. 12.08 Personality Disorders
8. 12.09 Substance Addiction Disorders
9. 12.10 Autism and Other Pervasive Developmental Disorders

These findings complete the medical portion of the disability determination.

MC/PC's Signature [REDACTED]	Date 12/09/2008
MC/PC's Printed Name [REDACTED]	Code 37

Form SSA-2506-BK (06-2001) Destroy Prior Editions

Permanent Subcommittee on Investigations
EXHIBIT #2e

II. DOCUMENTATION OF FACTORS THAT EVIDENCE THE DISORDER

A. 12.02 Organic Mental Disorders

Psychological or behavioral abnormalities associated with a dysfunction of the brain ... as evidenced by at least one of the following:

1. Disorientation to time and place
2. Memory impairment
3. Perceptual or thinking disturbances
4. Change in personality
5. Disturbance in mood
6. Emotional lability and impairment in impulse control
7. Loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan, etc.

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

B. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders

Psychotic features and deterioration that are persistent (continuous or intermittent), as evidenced by at least one of the following:

1. Delusions or hallucinations
2. Catatonic or other grossly disorganized behavior
3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:
 - a. Blunt affect, or
 - b. Flat affect, or
 - c. Inappropriate affect
4. Emotional withdrawal and/or isolation

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

C. 12.04 Affective Disorders

Disturbance of mood, accompanied by a full or partial manic or depressive syndrome, as evidenced by at least one of the following:

1. Depressive syndrome characterized by at least four of the following:

- a. Anhedonia or pervasive loss of interest in almost all activities, or
- b. Appetite disturbance with change in weight, or
- c. Sleep disturbance, or
- d. Psychomotor agitation or retardation, or
- e. Decreased energy, or
- f. Feelings of guilt or worthlessness, or
- g. Difficulty concentrating or thinking, or
- h. Thoughts of suicide, or
- i. Hallucinations, delusions or paranoid thinking

2. Manic syndrome characterized by at least three of the following:

- a. Hyperactivity, or
- b. Pressures of speech, or
- c. Flight of ideas, or
- d. Inflated self-esteem, or
- e. Decreased need for sleep, or
- f. Easy distractibility, or
- g. Involvement in activities that have a high probability of painful consequences which are not recognized, or
- h. Hallucinations, delusions or paranoid thinking

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above

Disorder Depression w/ anxiety per TP

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment (explain in Part IV, Consultant's Notes, if necessary):

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

D. 12.05 Mental Retardation

- Significantly subaverage general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period; i.e., the evidence demonstrates or supports onset of the impairment before age 22, with one of the following:
1. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow instructions such that the use of standardized measures of intellectual functioning is precluded*
 2. A valid verbal, performance, or full scale IQ of 59 or less*
 3. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function*
 4. A valid verbal, performance, or full scale IQ of 60 through 70*
- A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.
Disorder _____
Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

*NOTE: Items 1, 2, 3, and 4 correspond to listings 12.05A, 12.05B, 12.05C, and 12.05D, respectively.

- Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

E. 12.06 Anxiety-Related Disorders

Anxiety as the predominant disturbance or anxiety experienced in the attempt to master symptoms, as evidenced by at least one of the following:

1. Generalized, persistent anxiety accompanied by three of the following:
 - a. Motor tension, or
 - b. Autonomic hyperactivity, or
 - c. Apprehensive expectation,
 - d. Vigilance and scanning
2. A persistent irrational fear of a specific object, activity or situation which results in a compelling desire to avoid the dreaded object, activity, or situation
3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror, and sense of impending doom occurring on the average of at least once a week
4. Recurrent obsessions or compulsions which are a source of marked distress
5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder Anxiety dx; rx'd Xanax from TP

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

F. 12.07 Somatoform Disorders

Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms, as evidenced by at least one of the following:

1. A history of multiple physical symptoms of several years duration beginning before age 30, that have caused the individual to take medicine frequently, see a physician often and alter life patterns significantly
2. Persistent nonorganic disturbance of one of the following:
 - a. Vision, or
 - b. Speech, or
 - c. Hearing, or
 - d. Use of a limb, or
 - e. Movement and its control (e.g., coordination disturbances, psychogenic seizures, akinesia, dyskinesia), or
 - f. Sensation (e.g., diminished or heightened)
3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

G. 12.08 Personality Disorders

Inflexible and maladaptive personality traits which cause either significant impairment in social or occupational functioning or subjective distress, as evidenced by at least one of the following:

1. Seclusiveness or autistic thinking
2. Pathologically inappropriate suspiciousness or hostility
3. Oddities of thought, perception, speech and behavior
4. Persistent disturbances of mood or affect
5. Pathological dependence, passivity, or aggressivity
6. Intense and unstable interpersonal relationships and impulsive and damaging behavior

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

H. 12.09 Substance Addiction Disorders

Behavioral changes or physical changes associated with the regular use of substances that affect the central nervous system.

If present, evaluate under one or more of the most closely applicable listings:

1. Listing 12.02-Organic mental disorders*
2. Listing 12.04-Affective disorders*
3. Listing 12.06-Anxiety-related disorders*
4. Listing 12.08-Personality disorders*
5. Listing 11.14-Peripheral neuropathies*
6. Listing 5.05-Liver damage*
7. Listing 5.04-Gastritis*
8. Listing 5.08-Pancreatitis*
9. Listing 11.02 or 11.03-Seizures*

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

*NOTE: Items 1,2,3,4,5,6,7,8, and 9 correspond to listings 12.09A, 12.09B, 12.09C, 12.09D, 12.09E, 12.09F, 12.09G, 12.09H, and 12.09I, respectively. If items 1, 2, 3, or 4 are checked, only the numbered items in subsections IIA, IIC, IIE, or IIG of the form need be checked. The first block under the disorder heading in those subsections should not be checked, unless the evidence substantiates the presence of the disorder separate from the substance addiction disorder.

I. 12.10 Autistic Disorder and Other Pervasive Developmental Disorders

Qualitative deficits in the development of reciprocal social interaction, in the development of verbal and nonverbal communication skills, and in imaginative activity. Often there is a markedly restricted repertoire of activities and interests, which frequently are stereotyped and repetitive.

1. Autistic disorder, with medically documented findings of all of the following:

- a. Qualitative deficits in reciprocal social interaction
- b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity
- c. Markedly restricted repertoire of activities and interests

2. Other pervasive developmental disorders, with medically documented findings of both of the following:

- a. Qualitative deficits in reciprocal social interaction
- b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

III. RATING OF FUNCTIONAL LIMITATIONS

A. "B" Criteria of the Listings

Indicate to what degree the following functional limitations (which are found in paragraph B of listings 12.02-12.04, 12.06-12.08 and 12.10 and paragraph D of 12.05) exist as a result of the individual's mental disorder(s).

NOTE: Item 4 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

Specify the listing(s) (i.e., 12.02 through 12.10) under which the items below are being rated _____
12.04, 12.06

FUNCTIONAL LIMITATION	DEGREE OF LIMITATION					
	None	Mild	Moderate	Marked*	Extreme*	
1. Restriction of Activities of Daily Living	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
2. Difficulties in Maintaining Social Functioning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
3. Difficulties in Maintaining Concentration, Persistence, or Pace	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
4. Episodes of Decompensation, Each of Extended Duration	<input checked="" type="checkbox"/>		One or Two <input type="checkbox"/>	Three* <input type="checkbox"/>	Four* or More <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>

*Degree of limitation that satisfies the functional criterion.

B. "C" Criteria of the Listings

1. Complete this section if 12.02 (Organic Mental), 12.03 (Schizophrenic, etc.), or 12.04 (Affective) applies and the requirements in paragraph B of the appropriate listing are not satisfied.

NOTE: Item 1 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

Medically documented history of a chronic organic mental (12.02), schizophrenic, etc. (12.03), or affective (12.04) disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do any basic work activity, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement with an indication of continued need for such an arrangement.

Evidence does not establish the presence of the "C" criteria

Insufficient evidence to establish the presence of the "C" criteria (explain in Part IV, Consultant's Notes).

2. Complete this section if 12.06 (Anxiety-Related) applies and the requirements in paragraph B of listing 12.06 are not satisfied.

Complete inability to function independently outside the area of one's home

Evidence does not establish the presence of the "C" criterion

Insufficient evidence to establish the presence of the "C" criterion (explain in Part IV, Consultant's Notes).

IV. CONSULTANT'S NOTES

35 yo female w/ 14 yrs of education alleges depression. H/o skilled work as a [REDACTED] Reportedly rx'd Xanax from TP, no professional MH tx.

ICC: Has feelings of depression because can't work anymore or do what she used to because of her physical condition. Xanax helps w/ sx, not seeking professional MH tx.

ADLs: lives w/ family, takes care of kids and husband, problems sleeping b/c of physical allegations, problems w/ personal care due to physical, no reminders for meds, sometimes prepares sandwiches but doesn't cook, doesn't do chores, only go outside when necessary, can go out alone and does drive, can pay bills and manage accounts, like to read, spends time w/ others when they come by, regularly goes to the doctor, no problems getting along w/ others, problems w/ memory/concentration, don't know how long can pay attention, finishes what is started, follows instructions very well, handles stress and changes very well

TX: [REDACTED] 11/19/07 TP f/u didn't note any MH complaints or meds, but gave dx of depression w/ anxiety. Similar dx made on 10/23/07.

SELMA DOCTORS CLINIC: 7/21/08 note showed clmt rx'd Xanax 1 mg. 7/25/07 f/u noted clmt taking Xanax for nerves.

OVERALL RATING: 02

Clmt alleges depression. ADLs reflect limitations based primarily on physical allegations, with minimal independent mental limitations or complaints noted. Clmt has dx of depression and anxiety from TPs, no professional MH tx. It appears that his/her complaints are overwhelmingly of a physical nature; therefore, there is no need for further MH development. Her mental health hx doesn't appear to significantly affect her current functioning.

Section 223 and section 1633 of the Social Security Act authorize the information requested on this form. The information provided will be used in making a decision on this claim. Completion of this form is mandatory in disability claims involving mental impairments. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and another agency.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information about you may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 15 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE. To find the nearest office, call 1-800-772-1213. Send only comments on our time estimate above to: SSA, 6401 Security Boulevard, Baltimore, MD 21235-6401.**



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
4344 Carmichael Rd
Suite 200
Montgomery, AL 36106-3730

Date: April 23, 2010

[REDACTED]

Notice of Decision Fully Favorable

I carefully reviewed the facts of your case and made a fully favorable decision on your application(s) for a period of disability, disability insurance benefits, and Supplemental Security Income filed on October 22, 2008 and October 22, 2008. I stated the basis for my decision at your hearing held on April 9, 2010. I adopt the findings of fact and reasons that I gave at the hearing. Please read this notice of decision.

I found you disabled as of January 23, 2007 because of partial complex seizure disorder; sleep apnea disorder; lumbar disc disease; bursitis, right shoulder; headaches; depression; asthma; and morbid obesity so severe that you cannot perform your past relevant work or other work existing in significant numbers in the national economy.

It is my recommendation that a medical reexamination be completed in 24 months to determine if you still meet the requirements for disability.

If you would like more information about my decision, I can provide you with a record of my oral decision. You must ask for this record in writing. You may mail or bring your request to any Social Security or hearing office. Please put the Social Security number shown above on your request.

Another office will process my decision and decide if you meet the non-disability requirements for Supplemental Security Income payments. That office may ask you for more information. If you do not hear anything within 60 days of the date of this notice, please contact your local office. The contact information for your local office is at the end of this notice.

If You Disagree With My Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you or your representative must ask in writing that the Appeals Council review my decision. You may use our Request for Review form (HA-520) or write a letter. The form is

Form HA-L82 (03-2010)

See Next Page

Permanent Subcommittee on Investigations

EXHIBIT #3a

available at www.socialsecurity.gov. Please put the Social Security number shown above on any appeal you file. If you need help, you may file in person at any Social Security or hearing office.

Please send your request to:

**Appeals Council
Office of Disability Adjudication and Review
5107 Leesburg Pike
Falls Church, VA 22041-3255**

Time Limit To File An Appeal

You must file your written appeal **within 60 days** of the date you get this notice. The Appeals Council assumes you got this notice 5 days after the date of the notice unless you show you did not get it within the 5-day period.

The Appeals Council will dismiss a late request unless you show you had a good reason for not filing it on time.

What Else You May Send Us

You or your representative may send us a written statement about your case. You may also send us new evidence. You should send your written statement and any new evidence **with your appeal**. Sending your written statement and any new evidence with your appeal may help us review your case sooner.

How An Appeal Works

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. Review can make any part of my decision more or less favorable or unfavorable to you. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

The Appeals Council may:

- Deny your appeal,
- Return your case to me or another administrative law judge for a new decision,
- Issue its own decision, or
- Dismiss your case.

The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council denies your appeal, my decision will become the final decision.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not appeal. If the Appeals Council reviews your case on its own, it will send you a notice within 60 days of the date of this notice.

When There Is No Appeals Council Review

If you do not appeal and the Appeals Council does not review my decision on its own, my decision will become final. A final decision can be changed only under special circumstances. You will not have the right to Federal court review.

If You Have Any Questions

We invite you to visit our website located at www.socialsecurity.gov to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is (334)875-0587. Its address is:

Social Security
120 Executive Park Ln
Selma, AL 36701-7734

/s/ Tracy S. Guice

Tracy S. Guice
Administrative Law Judge

April 23, 2010

Date


Enclosures:
Form HA-L15 (Fee Agreement Approval)

cc:

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF



(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income



(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Ollie Garmon
Regional Chief Administrative Law Judge
SSA ODAR R O
Suite 20t10
61 Forsyth Street S W
Atlanta, GA 30303

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

[REDACTED]

You should include the social security number(s) shown on this order on any papers that you send us.

/s/ Tracy S. Guice

Tracy S. Guice
Administrative Law Judge

April 23, 2010

Date

cc:

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
PATIENT: [REDACTED]

DATE: 02/06/2007

SUBJECTIVE: Patient who is post-excision of infected hernia mesh per [REDACTED]
[REDACTED] Having some lower abdominal pain, urinary symptoms, occasional
some nosebleed. Hx of HTN. Does a lot of lifting at work.

OBJECTIVE: VS: Stable. HEENT: TMs normal. Nares normal. Pharynx
normal. Lungs are clear. CV normal. Abdomen benign. Extremities normal.
Neuro stable.

ASSESSMENT:

1. UTI
2. Status post abdominal hernia.
3. Allergic rhinitis.

PLAN: Accuhist LA nightly, continue Zestoretic 20/12.5. Add Macrochantin
with meals. Increase fluids, complete Bactrim. F/U in a month or prn.

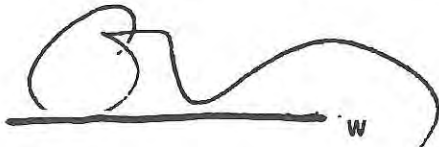

W

EXHIBIT NO. 2F
PAGE: 01 OF 92

DISCHARGE SUMMARY

Patient: [REDACTED]
Attending: [REDACTED]
Admission Date: 01/23/07
DOB: [REDACTED] F Age: [REDACTED]

PT. ACCT: [REDACTED]
ROOM #: R.213-1
HSC: MEDICAL-SURGICAL INP RACE: B

DISCHARGE SUMMARY

Patient: [REDACTED] MR #: [REDACTED]
Attending: [REDACTED] Pt Account #: [REDACTED]
Admission Date: 01/23/2007 Room #: R.213
DOB: [REDACTED] Sex: F Age: 39Y HSC: MED RACE: B

CC: [REDACTED]

DATE OF DICTATION: 01/28/2007 10:11:30

DATE OF DISCHARGE: 01/28/2007

HOSPITAL COURSE: This 39-year-old female came to us with severe epigastric pain and tenderness. She underwent incisional hernia repair with mesh. She had aches, pain, chills, and fever and not getting any better. She underwent laparotomy. We removed the mesh which was infected with MRSA and marked fibrosis. The fibrous tissue was debrided, and the mesh removed. She received IV Vancomycin during the hospital course. She was afebrile upon release. She was sent home on Septra an additional 10 days. She had significant improvement in her preoperative pain status. The wound was clean and dry and staples were still in. She is to follow up in the office within 5 days. She is released home on iron tablets and Percocet for pain p.r.n. 7.5 mg, 15 tablets.

FINAL DIAGNOSIS: Infected incisional hernia with mesh of MRSA

DICTATING PHYSICIAN:

PATIENT FULL NAME _____
[REDACTED]

[REDACTED] LF> PCI *LIVE* (PCI: OE Database COCVG)

Run: 11/13/08-13:43 by [REDACTED]

PATIENT: [REDACTED]

DATE: 07/22/2009

SUBJECTIVE: History of hypertension, asthma, sleep apnea disorder, seizure disorder. She was involved in MVA a couple of weeks ago secondary to seizure. Been on Dilantin 100 b.i.d., having shoulder, neck, low back pain. She has not worked in 2 years.

OBJECTIVE: Vital signs - Stable. Lungs are clear. CV normal. Abdomen benign. Extremities - stable. L Spine tenderness L5-S1. Right shoulder tenderness AC joint.

ASSESSMENT:

1. Hypertension.
2. Asthma.
3. Sleep apnea.
4. Obesity.
5. Status post MVA with shoulder pain.
6. Seizure disorder exacerbation.
7. Bursitis, right shoulder.

PLAN: D/C the Percocet. Increase Neurontin 300 mg b.i.d., Hydrochlorothiazide 25 mg daily. Follow up in 6 weeks. She is going to apply for disability.



PATIENT [REDACTED]
DATE: 01/19/2007

SUBJECTIVE: A 30yoyl complaining of pain and swelling abdominal area.
Hx of ventral hernia in the past.

OBJECTIVE: VS: Weight 215, down 15 pounds. Lungs are clear. CV normal. Abdomen abdominal mass. Extremities normal. Neuro stable.

ASSESSMENT:

1. Recurrent ventral hernia.

PLAN: CT abdomen, pelvis. Referral to C. Lett for management. Percocet for pain management. F/U in a week.



Patient Name: [REDACTED] Date: 3/6/09

Weight: 288.4 Height: _____ B/P: 113/81 PR: 79 RR: _____

Age: 41 DOB: [REDACTED] Allergies: NKDA

Medications: Proventil Inhaler - Florent - Hydrochlorothiazide

Referring Source: _____

V. A.: No Correction Left eye _____ Right eye _____ With Correction Left eye _____ Right eye _____

Progress Note

03/06/09

[REDACTED]
Patient is here for a follow-up. Patient is using her CPAP machine every night. She reports that she is feeling more alert and awake. She is still having the headaches, however. She is diagnosed with migraine headaches. She has gained 2 lbs. since her last visit and now she is at 288 lbs.
Physical Examination: Motor power and coordination are normal. Patient is morbidly obese.

Assessment:

1. Obstructive sleep apnea syndrome.
2. Migraine headaches.

Plan:

1. I will keep her on the CPAP machine as is. She is on a pressure of 7cm.
2. I will start her on Topamax 50mg qhs to be increased in one week to 50mg bid. Hopefully the Topamax will help the headaches and that will also help her to lose weight.
3. Follow-up with me in one month for re-evaluation.

WWF

[REDACTED]

[REDACTED]

SLEEP EVALUATION

Name: [REDACTED]
Date: 08/19/08
Referring Source: [REDACTED]
Source of history: Patient
Reliability: Good

Chief Complaint: Snoring and cessation of breathing of about 10-15 years duration.

History of Present Illness: This is a 40-year-old lady who has been experiencing snoring and cessation of breathing during her sleep over the past 10-15 years. Her snoring is loud and is throughout the night. Her snoring is interrupted by episodes of cessation of breathing. Patient sometimes notices that she chokes for air. She goes to bed between 9:00 and 10:00 p.m. and gets up between 5:30 and 6:00 a.m. Upon awakening she does not feel refreshed at all. In the morning she almost always experiences headaches that are described to be in the temples and pressure in nature. During the daytime she is sleepy and tired. She has a high chance of dozing off while sitting and reading, watching T.V., as a passenger in a car for an hour without a break, and when lying down to rest in the afternoon when circumstances permit. She has a moderate chance of dozing off sitting inactive in a public place, sitting and talking to someone, and sitting quietly after lunch with alcohol. She has a mild chance of dozing off while in a car stopped for a few minutes in traffic. Patient reports that she had a motor-vehicle accident 3-4 weeks ago because she fell asleep. She veered off the road and hit a tree. Patient also has noticed over the past few years to be more irritable than her usual self. She seems to be more forgetful and at times disoriented when she wakes up. Her weight has progressively increased. In the past two years alone she has added 80-100 lbs. She was 140 lbs. in high school and now she is 279.8 lbs. There is no history of cataplexy, narcolepsy, sleep paralysis, or hypnagogic hallucinations. There is also no history of oral or nasal surgeries.

Review of Systems: No symptoms attributed to CV, GI, GU, pulmonary, hematological, or psychiatric systems.

Previous Medical History: There is a history of hypertension that is relatively well controlled.

Medications: Proventil Inhaler; Flovent; and Nlyzaac.

Allergy: NKDA.

Social History: Does not smoke, drink, or abuse drugs.

Name: [REDACTED]

Date: 08/19/08

Page 2 of 3

Family History: Non-contributory.

Physical Examination:

Vital Signs: Weight 279.8 lbs. Height 5'2 1/2". BP 128/80. PR 84/min, RR 20/min.

General Appearance: In no acute distress. Patient is morbidly obese.

H.E.ENT: No nasal polyps, no conjunctivitis. Mallampati is grade IV.

Neck: No bruits, supple. Neck circumference is 15.5in.

Lungs: Clear and resonant. No wheezing or rhonchi.

Heart: Normal S1, S2, no murmurs, gallops, or heave.

Abdomen: Soft with no tenderness or hepatosplenomegaly. Bowel sounds are heard.

Lymphatics: No lymph nodes.

Extremities: No deformities, edema, clubbing, or cyanosis.

Neurologic Examination:

Mental Status: Patient is awake, alert, and oriented. Language and speech are normal.

Cranial Nerve Exam:

I: NT.

II: Fundi are normal, visual fields are full in all quadrants.

III, IV and VI: Extraocular movements are normal in all directions with no nystagmus.

V: Facial sensation is normal in all divisions (V1, V2, and V3).

VII: No facial weakness or asymmetry.

VIII: Normal to finger test.

IX and X: Normal swallow and gag.

XI: C5/Trapezius and Sternocleidomastoid.

XII: Tongue in the midline and shows no weakness, atrophy or fasciculation.

Motor Exam: C5/Trapezius.

EMG: C5/Trapezius. There are denervating.

Sensory Exam: Intact to pinprick, light touch, vibration, and position sense.

Coordination: Unremarkable finger to nose and heel to shin exams bilaterally.

Gait: Unremarkable.

Assessment and diagnoses:

1. Obstructive sleep apnea syndrome. This is supported by the patient's history of snoring, cessation of breathing, and daytime sleepiness.
2. Hypertension.

Name: [REDACTED]

Date: 08/19/08

Page 3 of 3

Plan:

1. I discussed with the patient the above. I discussed with her sleep apnea and how that will increase her risk of developing hypertension, heart disease and strokes.
2. I asked her not to drive if she feels sleepy at all. She needs to be very cautious in driving, especially at this last accident she had.
3. She was advised to lose weight.
4. The polysomnogram was discussed and patient was agreeable to have one.
5. If the polysomnogram shows evidence of sleep apnea, then patient will be brought back for a CPAP titration study.
6. I will see her after the sleep studies are performed.



D.
Diplomate, American Board of Psychiatry and Neurology
Diplomate, American Board of Sleep Medicine

WWF/ba

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PATIENT [REDACTED]
DATE: 10/08/2007

SUBJECTIVE: History of HTN, previously been on Zestoretic 20/12.5 but this has been causing dizziness.

OBJECTIVE: VS: Stable. Lungs are clear. CV normal. Abdomen benign. Extremities - stable. Neuro stable.

ASSESSMENT:

1. Anemia.
2. HTN.

PLAN: D/C the Zestoretic. Low dose HCTZ 1/2 tablet daily. Concerned about weight gain, encourage exercises. F/U in a month or prn.

✓

€ _____

PATIENT [REDACTED]

DATE: 10/22/2008

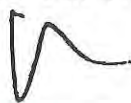
SUBJECTIVE: History of sleep apnea syndrome. Having some low back pain radiating to the right leg. Interested in obesity surgery. Feeling depressed.

OBEJCTIVE: Morbidly obese female. No acute distress. Vital signs stable. Pharynx normal. Lungs are clear. Cardiovascular normal. Extremities stable.

ASSESSMENT:

1. Low back pain.
2. Radiculopathy.
3. History of asthma.
4. Sleep apnea disorder.

PLAN: Pepcid 20 daily, Ventolin 2 puffs q6 hours. X-ray lumbar spine. Put on 1200 calorie diet. F/U in a month.

6 

PATIENT: [REDACTED]

DATE: 12/23/2008

SUBJECTIVE: History of persistent low back pain. No response to the Naprosyn. On Percocet.

OBJECTIVE: Vital signs stable. Lungs are clear. Cardiovascular is normal. Extremities - stable. Neuro intact.

ASSESSMENT:

1. Lumbar disk syndrome.

PLAN: MRI lumbar spine. Percocet b.i.d. Obesity counseling as well. She is morbidly obese. No improvement. Follow up in a month. Exercise as tolerated. Refer to L [REDACTED] in March.

[Handwritten signature]

[REDACTED]

[REDACTED] NAME

[REDACTED]

PATIENT [REDACTED]

DATE: 01/26/2009

SUBJECTIVE: History of osteoarthritis, pain and stiffness. History of CPAP disorder, using CPAP machine. Been on Percocet for pain. On Paxil for depression. She desires obesity surgery. She has not lost any weight since starting.

OBJECTIVE: VITAL SIGNS: Stable. Weight 289. Blood pressure 130/80. LUNGS: Clear. CV: Normal. ABDOMEN: Benign. EXTREMITIES: Stable.

ASSESSMENT:

1. Morbid obesity.
2. Hypertension.
3. Sleep apnea disorder.

PLAN: Neurontin 100 b.i.d., continue hydrochlorothiazide daily. CPAP as directed. Follow up here in a month's time. Referral to obesity clinic.



ALABAMA DISABILITY DETERMINATION SERVICE
VOCATIONAL RATIONALE FORM

CLAIMANT NAME: [REDACTED]
Date of Birth: [REDACTED]
DISABILITY SPECIALIST: [REDACTED]

[REDACTED]
CLAIM [REDACTED]

I. GENERAL CLAIM INFORMATION

A. RATIONALE IS FOR:

- 1. Current Evaluation
- 2. Date Last Insured _____
- 3. Projected After 12 Months _____
- 4. Other: _____

B. AGE:

- 1. Younger Individual (Up to 49)
- 2. Approaching Advanced Age (50-54)
- 3. Advanced Age (55-59)
- 4. Approaching Retirement Age (60-64)

C. EDUCATION:

- 1. Illiterate/No English
- 2. Marginal (6 years or less)
- 3. Limited (7-11 years)
- 4. High School (12 years or more)

II. PAST RELEVANT WORK

- A. The claimant has no past relevant work experience.
 - 1. The claimant has a severe impairment, is of advanced age or older and has a limited education. This fits the special adverse vocational profile. (POMS DI 25010.001 B.2.)
- B. The limitations outlined in RFC/MRFC dated _____ are consistent with the physical/mental requirements of the claimant's past relevant work as a:
 - 1. as the job was actually performed AND/OR
 - 2. as the job is usually performed in the national economy
DOT # _____
- C. 1. The claimant's past relevant work as actually performed would be ruled out due to limitations outlined in RFC/MRFC dated _____ 01/13/2009

JOB TITLE

RFC LIMITATIONS THAT RULE OUT JOB

- A. [REDACTED] Stand and walk about 4, Lift/carry 20/10, unskilled work
- B. [REDACTED] x3 Stand and walk about 4, Lift/carry 20/10, unskilled work
- C. [REDACTED] Stand and walk about 4, Lift carry 20/10, unskilled work
- D. [REDACTED]
- E. [REDACTED]
- F. [REDACTED]
- G. [REDACTED]

2. The claimant's past relevant work as usually performed in the national economy would be ruled out due to limitations outlined in the RFC/MRFC dated _____

DOT #

RFC LIMITATIONS THAT RULE OUT JOB

- A. 299.167-010 See above. Unskilled work
- B. 355.674-014 x3 See above. Unskilled work
- C. 355.674-014 See above. Unskilled work
- D. [REDACTED]
- E. [REDACTED]
- F. [REDACTED]
- G. [REDACTED]

CLAIMANT NAME: [REDACTED]
DISABILITY SPECIALIST: [REDACTED]

A/N [REDACTED] EXHIBIT NO. 13E
CLAIM [REDACTED] PAGE: 2 OF 3

- D. The claimant's past relevant work as a [REDACTED] is a combination of two or more different jobs. As such, the job is determined to have no direct correlation to one occupational title in the national economy (D.O.T.). The claimant's description regarding the physical/mental demands of this job are therefore accepted as given. (ITEM II.C.1 must be completed.)
- E. Reasonable attempts to document all of the claimant's past relevant work have been unsuccessful. Review of the vocational information already in file supports the claimant's ability to perform other work, step 5. (Reference: Prototype Operating Instructions, Section III. C. 9.)

Additional Rationale Comments:

III. OTHER WORK

A. RFC/MRFC Assessment(s): Maximum Work Capacity Date(s): 12/3/08 1/13/09

- 1. No Exertional Limitations
- 2. Heavy Work Range
- 3. Medium Work Range
- 4. Light Work Range
- 5. Limited Light Work Range
- 6. Sedentary Work Range
- 7. Less Than A Full Sedentary Work Range
- 8. Skilled Level Work
- 9. Semi-Skilled Level Work
- 10. Unskilled Level Work
- 11. Unskilled Work Requirements Not Met

B. The restrictions as outlined on RFC or MRFC dated _____ would preclude the claimant from performing the basic requirements of sedentary OR unskilled work due to:

C. The claimant has acquired skills from past relevant work, but the issue of transferability of those skills to other jobs is immaterial. Job citation of occupations the claimant could perform is located in III.E.

D. The claimant has acquired skills from relevant past work that are transferable to other jobs. Please refer to the vocational analysis in file.

E. The claimant has not acquired transferable skills. The overall vocational profile remains favorable for work adjustment to other jobs. Examples of jobs this claimant can perform include:

JOB TITLE/DOI#	STRENGTH/SKILL LEVEL
1. Hander in 683.687-018	Unskilled/sedentary
2. Lens Inserter 713.687-026	Unskilled/sedentary
3. Cuff Folcer 685.687-014	Unskilled/Sedentary

Affirmative evidence of job existence is confirmed by the appropriate reference material which documents a significant number of individuals are employed in the primary industries wherein these jobs are found.

CLAIMANT NAME: [REDACTED]
DISABILITY SPECIALIST: [REDACTED]

A/N [REDACTED] EXHIBIT NO. 13E
CLAIM [REDACTED] PAGE: 3 OF 3

F. The claimant has a severe upper extremity impairment that causes a partial OR major loss of the use of the left OR right upper extremity. Given the claimant's age of _____ and the absence of any transferable skills, such restrictions as indicated by the RFC dated _____ would not preclude the claimant from adjusting to other unskilled types of work involving elementary handling functions, non-complex clerical or customer service and simple machine tending work. These job functions include such activities as welding, assembling, inspecting and sanding/finishing. These jobs are found throughout the national economy in numerous work settings.

G. This claimant's age is within a few days/weeks of a higher age category and using that higher age category would result in a favorable determination. The following factor(s) will justify use of a higher age category:

- 1. English literacy is minimal.
- 2. The ability to communicate in English is marginal.
- 3. The requirements for meeting an educational level are marginal.
- 4. There are multiple years of unskilled work in an isolated industry.
- 5. There are impairments, in addition to primary impairment(s), that were considered in the RFC assessment but did not significantly impact on the occupational base of the exertional level established by the RFC assessment.

H. The claimant HAS HAS NOT acquired skills from past work activity. The overall vocational profile is not favorable for work adjustment to other jobs because:

I. Vocational Rule Number: 201.28

- 1. Rule is met and directs a decision of Disabled OR Not Disabled
- 2. Rule provides the framework for a decision of Disabled OR Not Disabled

Additional Rationale Comments:

SIGNATURE:

[REDACTED]

Date

01/13/2009

April 6, 2010

Faith Disability Advocacy Program
2533 Broad Street
Selma, Alabama 36701

PHYSICAL CAPACITY EVALUATION

RE: [REDACTED]
DOB: [REDACTED]
SSN: [REDACTED]

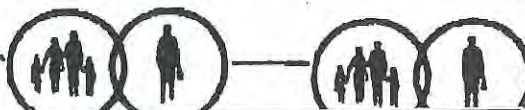
Dear Sir/Madam:

At your request, I did a disability physical capacity evaluation for [REDACTED] in my office on April 6, 2010. She is a 42-year-old young lady with history of partial complex seizure disorder, major depression, sleep apnea disorder, lumbar disk syndrome and chronic bursitis, right shoulder. Also, history of migraine headaches. The patient has not worked since 2007. She spent 10 years working at [REDACTED] being [REDACTED]. Part-time she was a home health aide from 1987 to 1998. Around 2003-2004 she started having problems with hernias, initial surgery done by [REDACTED]. In 2006, surgery for hernia repair. This was done by [REDACTED]. In 2007, she had a third procedure done by [REDACTED] because the hernia had become infected and had to be taken down. The patient has history of lumbar disk disease since about 2008.

CURRENT MEDICATIONS: Include hydrochlorothiazide for blood pressure. She is on Prestige 50 mg daily for depression. She is on Ventolin 2 puffs q,6 hours and Advair 100/50, onc puff b.i.d. for asthma. She is on Topamax 50 mg b.i.d. for partial complex seizure disorder. She has CPAP equipment, setting of 8 nightly. For her lumbar disk disorder, she is on Percocet 5 mg b.i.d., Flexeril 10 mg b.i.d. She is on Midrin p.r.n. for migraine headaches.

Unfortunately, this pleasant young lady is 100% disabled. Please do refer to the physical capacity evaluation form.

If I can be of further assistance to you, please do not hesitate to contact me.



Permanent Subcommittee on Investigations

EXHIBIT #3m

Thank you,

A handwritten signature in black ink, followed by a solid horizontal line and a dashed horizontal line below it.

EXHIBIT NO. 10F
PAGE: 5 OF 14



Faith Disability Advocacy Program
2533 N. Broad St
Selma, Al 36701

EXHIBIT NO. 10F
PAGE: 7 OF 14

Date: 4/2/10

Doctor: _____

Doctors Medical Source Overall Opinion for Disability:

4/2/10 = FC Forward Company IT-D-1
been the company since April
starting security

Physical Capacity Overall Opinion for Disability:

100%

Doctors Signature: _____



PHYSICAL CAPACITIES EVALUATION FORM (PCE)

CLAIMANT [REDACTED] SSN [REDACTED]

Please complete the following items based on your clinical evaluation of the claimant and other results. Any item that you do not believe you can answer should be marked N/A (not answerable).

*In terms of an eight (8) hour workday, "Occasionally" = 1%-33%;
"Frequently" = 34%-66%; and "Continuously" = 67%-100%.*

I. Claimant can lift:

	Never	Occasionally	Frequently	Continuously
A.) Up to 5 lbs	()	(/)	()	()
B.) 6-10 lbs	(/)	()	()	()
C.) 11-20 lbs	(/)	()	()	()
D.) 21-25 lbs	(/)	()	()	()
E.) 26-50 lbs	(/)	()	()	()
F.) 51-100 lbs	(/)	()	()	()
G.) 101-150 lbs	(/)	()	()	()

II. Claimant can carry:

	Never	Occasionally	Frequently	Continuously
A.) Up to 5 lbs	()	(/)	()	()
B.) 6-10 lbs	(/)	()	()	()
C.) 11-20 lbs	(/)	()	()	()
D.) 21-25 lbs	(/)	()	()	()
E.) 26-50 lbs	(/)	()	()	()
F.) 51-100 lbs	(/)	()	()	()
G.) 101-150 lbs	(/)	()	()	()

III. Claimant can use hands for:

	Never	Occasionally	Frequently	Continuously
A.) Simple grasping				
Right	()	(/)	()	()
Left	()	(/)	()	()
B.) Pushing & pulling of arm controls				
Right	(/)	()	()	()
Left	(/)	()	()	()
C.) Fine manipulation				
Right	()	(/)	()	()
Left	()	(/)	()	()

CLAIMANT _____

SSN _____

IV. Claimant can use feet for:

	Never	Occasionally	Frequently	Continuously
A.) Pushing & pulling of leg controls				
Right	(S)	()	()	()
Left	(S)	()	()	()

V. Claimant is able to:

	Never	Occasionally	Frequently	Continuously
A.) Stoop	(S)	()	()	()
B.) Crouch	(S)	()	()	()
C.) Kneel	(S)	()	()	()
D.) Crawl	(S)	()	()	()
E.) Climb	(S)	()	()	()
F.) Balance	(S)	()	()	()
G.) Reaching (overhead)	(S)	()	()	()

VI. Claimant is able to work at activities involving:

	Never	Occasionally	Frequently	Continuously
A.) Unprotected heights	(S)	()	()	()
B.) Being around machinery	(S)	()	()	()
C.) Exposure to marked changes in temperature and humidity	(S)	()	()	()

VII. Claimant is able to stand and/or walk: (with normal breaks)

- never
- less than 2 hours in an 8-hour workday
- at least 2 hours in an 8-hour workday
- about 6 hours in an 8-hour workday
- medically required hand-held assistive device is necessary for ambulation

CLAIMANT 


SSN 

VIII. Claimant is able to sit: (with normal breaks)

- never
- less than about 6 hours in an 8-hour workday
- about 6 hours in an 8-hour workday
- must periodically alternate sitting and standing to relieve pain or discomfort

VIII. Claimant can:

	LIMITED	UNLIMITED
See		
Hear		
Speak		
Temperature Extremes		
Noise		
Dust		
Vibration		
Humidity/Wetness		
Fumes, odors, chemicals, gases		

Physician's Signature 

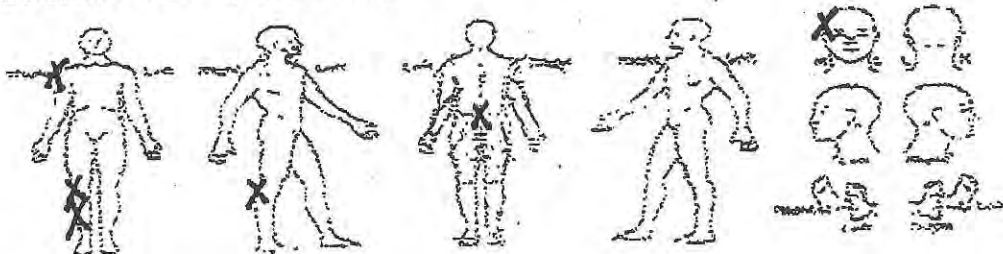
Date 1-6-20

INITIAL PAIN ASSESSMENT TOOL (ADULT)

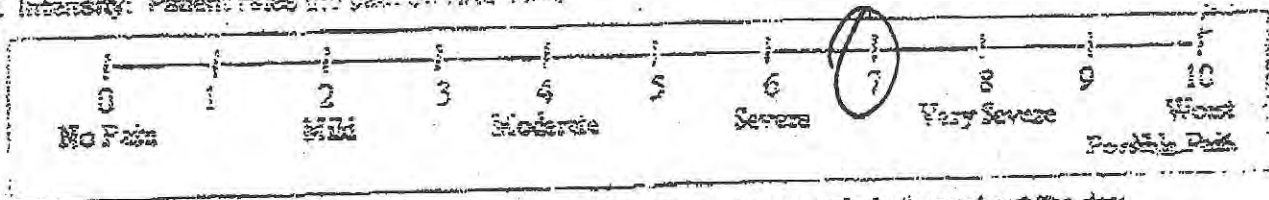
Patient's name: [REDACTED] DOB: [REDACTED] Hgt: [REDACTED] Date: 4-7-18

Diagnosis: Back, L. Shoulder, Headaches, Seizures, Allergies, LoxTAB Nurse: _____

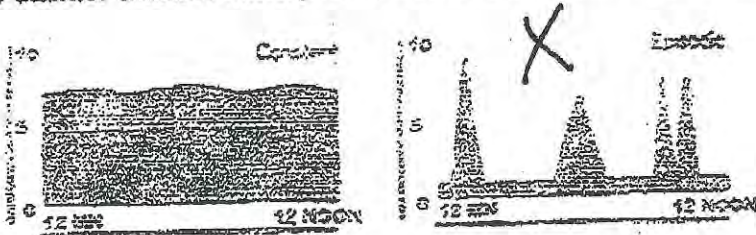
1. Location: Patient or nurse marks drawing



2. Intensity: Patient rates the pain on NRS scale



3. Pain Patterns: Indicate which picture best describes the way your pain is throughout the day



4. Effects of Pain:

Effect	Not At All	A Little	A Lot
Working	Not At All	A Little	<u>A Lot</u>
Relationships	<u>Not At All</u>	<u>A Little</u>	A Lot
Mood	Not At All	A Little	<u>A Lot</u>
Sleeping	Not At All	A Little	<u>A Lot</u>
Walking	Not At All	<u>A Little</u>	A Lot
Enjoying life	Not At All	A Little	<u>A Lot</u>
Taking care of yourself	Not At All	<u>A Little</u>	A Lot
Other	Not At All	<u>A Little</u>	A Lot

(The following is a transcript in the hearing held before Tracy S. Guice, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on April 9, 2010, at Montgomery, Alabama, in the case of [REDACTED], Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED]. Also present were [REDACTED] Medical Expert; [REDACTED], Vocational Expert.)

(The hearing commenced at 10:32 a.m. on April 9, 2010.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: -- case of [REDACTED]

CLMT: [REDACTED]

ALJ: [REDACTED] I'm sorry [REDACTED] Social Security number

[REDACTED] Good morning.

CLMT: [REDACTED]

ALJ: Is it [REDACTED]? You're certainly right. Thank you so much for correcting that because that would have been the wrong number to have placed on there. Social Security number [REDACTED].

CLMT: Right.

ALJ: Thank you, [REDACTED]. My name is Tracy Guice, I'm the Administrative Law Judge with the Office of Disability Adjudication and Review assigned to this case. I note for the record [REDACTED] is present along with her representative, [REDACTED]. Also present is a friend of [REDACTED], [REDACTED]. We have as our hearing reporter today, [REDACTED]. Our medical expert is [REDACTED], and our vocational expert is [REDACTED].

[REDACTED] All testimony today is going to be taken by oath or affirmation. What that means is I'm going to swear you in and it's going to be necessary for you to testify truthfully and full.

CLMT: All right.

ALJ: If for some reason you don't understand a question, please ask me to repeat it or explain it to you. Now I will tell you that ~~my~~ job as our hearing reporter is to make sure she takes notes about the hearing and also run recording equipment. That's why the mics are in front of you.

CLMT: Yes, ma'am.

ALJ: However, we can't take a notation or make a recording if you're just going to nod your head to respond to questions. So you do need to give me verbal responses and also keep your voice up so that we do get that recording of the hearing. would you like to waive a formal reading of the issues?

REP: Yes.

ALJ: Have you and your client looked at the evidence in the record? Do you have any objection to that evidence?

REP: I have an objection to the evidence that they only used the basic information of obesity --

ALJ: You need to, you need to bring the mic just a little bit closer. Now what were you saying, you have an objection --

REP: That they only looked at obesity and the asthma issue based on what I saw in the records --

ALJ: Okay.

REP: -- as their -- to make their decision.

ALJ: And I have the full authority to look at everything, including the most recent evidence that you brought in.

REP: Right, thank you.

ALJ: Okay. I'll note that for the record. Before I read the

evidence into the record, let me tell you that I'm not bound by the prior unfavorable determination made at the initial level. I'm not bound by their decision, but I am bound by Social Security laws and regulations. So when I issue my decision, it's based on all the evidence in the record as well as testimony I take at this hearing. This is a fully electronic file. It consists of 1A through 4A, 1B through 13B, 1D through 5D, 1E through 17E, and 1F through 9F. 10F is a more recent request for an on-the-record disposition, including an evaluation performed by _____ indicating that the claimant had significant limitations as previously noted in the record.

(Exhibits 1A through 10F, previously identified, were received into evidence and made a part of the record thereof.)

ALJ: All right, _____, also _____, in case you say anything, I would like for you to be under oath. So would all of you raise your right hands please.

(The Claimant, _____, having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q All right. _____, let's make sure we still have that correct address for you. _____

A Correct.

Q Telephone number still _____

A Correct.

Q All right. You're alleging you became disabled January 23rd of 2007. Have you worked since that date?

A No, ma'am.

Q Are you working now?

A No, ma'am.

Q What's the highest grade in school you completed?

A 12th.

Q Okay. You have some jobs in the past where you did some work as a [REDACTED], [REDACTED], and [REDACTED]. Any other jobs that you would have performed in the past 15 years that I didn't name?

A No. [REDACTED]

Q [REDACTED], okay. [REDACTED], is there anything about her past work I need to ask her before you can testify?

VE: No, ma'am.

ALJ: Okay.

BY ADMINISTRATIVE LAW JUDGE:

Q [REDACTED] I'm understanding that you have a combination of medical issues, including you've had some issues with headaches, but you more recently had some seizure issues, is that correct?

A That's correct.

Q You've been treated by [REDACTED], a neurologist, correct?

A That's correct.

Q You've also had some asthma problems.

A Correct.

Q Shortness of breath with exertion, okay?

A Yes, ma'am.

Q You've also had some problems with osteoarthritis in your back.

A And right shoulder.

Q Okay, in your right shoulder you have bursitis, correct?

A Correct.

Q Sleep apnea, you've been diagnosed with sleep apnea?

A Yes.

Q All right. You've also had some depression issues, is that correct?

A Correct.

Q All right. And more importantly you've had some blood pressure issues, hypertension?

A Yes.

Q All right. And how much, how much do you currently weigh?

A 276.

Q And how tall are you?

A Five feet.

Q Okay. I notice today you came to the hearing using a cane. Did someone prescribe that for you?

A I use a cane because my back locks up on me.

Q Okay.

A And when my back locks up on me, I have a hard time getting around. So I mentioned it to my doctor.

Q And did they recommend that you get a cane then?

A Yes.

Q Okay. Did they prescribe it for you?

A He didn't prescribe it, but he told me I could just buy one.

Q And they instructed you to use it?

A Yes.

Q Okay. Let me ask you a couple questions about your functional abilities. Can you lift and carry anything over 10 pounds without a problem?

A No.

Q Are you able to sit, stand or walk for a prolonged period of time?

A No.

Q Does even sitting bother you for a long period of time?

A Yes.

Q What happens?

A When I sit for a long period of time, I start to have pain in my --

Q In your back?

A -- in my lower back. I have to get up, move for a little while, then sit back down, turn in different positions. Put something behind my back.

Q And let me just ask you this. It looked like _____ has actually put you on some seizure medication, is that true?

A That's true.

Q Has that medication helped you?

A A little bit, yes and no because I still have episodes.

Q Do you live alone or with anyone?

A Me and my son live together in --

Q How old is your son?

A He's four. And my daughter --

Q Are you the primary caregiver for him?

A Yes.

Q Do you have to have help taking care of him?

A Yes. My daughter --

Q Who comes over and helps you?

A My daughter, she moved back in.

Q Okay. So does your daughter also help you with your household chores?

A Yes.

Q Do you have a driver's license?

A I do.

Q Do you drive?

A Not now.

Q Why is that?

A Because of the seizures.

Q You had some episodes where you had staring spells, and then you also had an episode where you actually passed out, or blacked out, is that correct?

A Yes.

Q Is that a yes?

A Yes, ma'am.

Q Okay. Anything further you want to tell me that I haven't asked you?

A No, along with that, you know, when I have them I have the -- after I have them, you know, I have the wet pants and stuff like that.

Q You lose control. I did read that in the record. Okay. All right, well thank you. [REDACTED], I will tell you that based on

what I see as evidence in the record along with what _____ report was in 10F, that I'm going to find that her maximum residual functional capacity is for less than a full range of sedentary. I do however have two experts here and I need to get their testimony on the record before I can read my bench decision checklist into the record, okay? All right, let's go to _____ first.

(The Medical Expert, _____ having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q _____, you've been sworn in. Could you state your full name for the record, please.

A _____

Q Does the resume in the record accurately reflect your professional qualifications?

A Yes.

Q Have you had any social or professional contact with the claimant or her friend, _____?

A I have not.

Q _____ any objections? I'm going to ask you for both experts, for _____ Do you have any objections to their presence and testimony or professional qualifications?

REP: (INAUDIBLE)

ALJ: Is that a no?

REP: No.

ALJ: Okay.

BY ADMINISTRATIVE LAW JUDGE:

Q D_____ you're familiar with Social Security laws,

regulations including the adult listings, is that correct?

A Yes, Your Honor.

Q Have you been present during the claimant's testimony and also reviewed the evidence in the record?

A I have.

Q I want you to do two things for me. Based on your education, experience and training, could you identify for me the claimant's mental impairments and state whether they meet or equal a listing?

A She has a history of chronic major depressive disorder, deemed to be moderate in 2008 with a brief episode of anti-depressant medication prescribed by her family physician. There is no ongoing mental health treatment for that.

Q Does this meet or equal a listing based on your education, experience and training?

A It does not meet or equal the 12.04 listing, Judge.

Q When we look at the B criteria, could you give me those limitations with regard to your education, experience and training and review of the record?

A Well, this would be for that time period because there's nothing current.

Q Correct.

A No impairments maintaining activities of daily living. Moderate impairments maintaining concentration, persistence and pace. Mild to moderate impairments maintaining social functioning with no episodes of decompensation present.

Q All right. Would the claimant, in your opinion, be able to

perform work activity that involved complex instructions, or would she be reduced basically to unskilled type work?

A There is not information in here that indicates that she would not be able to perform complex tasks.

Q But given -- if you also --

A If you take the combination of everything, that would probably be difficult, yes.

Q Okay, all right. Any questions for _____

REP: (INAUDIBLE)

ALJ: Okay. Is that a no? You have to say --

REP: No.

ALJ: -- just a little bit louder so we do get a recording of your testimony.

REP: No.

(The Vocational Expert, _____ having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q I _____, you've been sworn in. Could you state your full name for the record please.

A _____

Q Does the resume in the record accurately reflect your professional qualifications?

A Yes, it does.

Q Have you had any social or professional contact with the claimant or her friend, _____

A No, ma'am.

Q Have you reviewed the evidence in the record with regard to

the claimant's work history?

A Yes, I have.

Q Could you identify for me the claimant's past work with regard to the past 15 years, job title, skill and exertional level?

A She's worked as a [REDACTED], which is light and on the lower end semiskilled range. It has an SVP:3. She's also worked as a [REDACTED] both [REDACTED] as well as [REDACTED]. The Dictionary of Occupational Titles describes that work as medium, semiskilled. She functioned at the medium, semiskilled range in the [REDACTED]. And then at the heavy, semiskilled range in the [REDACTED].

Q All right.

A On [REDACTED] I'm sorry.

Q I would for you to -- for hypothetical number one to consider an individual of the claimant's age, education and vocational experience. Who is not able to engage in work activity on a regular and consistent basis for eight hours a day, 40 hours a week, or maintain concentration for two-hour periods during an eight-hour workday. First, would such an individual be able to perform any of the claimant's past work? And if not, would there be other jobs in the regional or national economies?

A No to both questions.

Q Any questions for [REDACTED]

REP: No, not at this time.

ALJ: [REDACTED] based on the evidence in the record, your testimony and the testimony of the experts, I'm going to issue a fully favorable bench decision. I will read this checklist into the record

and it will become your decision in this case. You will receive a notice in the mail confirming everything that's happened here today. I will, after I read it into the record, provide it to your representative. You may review it, [REDACTED], and state whether you have any objections thereto. Then you'll need to give it back to me because it will be scanned into the record after this hearing and go in as Exhibit 5A.

This is the case of [REDACTED]. I'm not going to say your first name correctly.

CLMT: [REDACTED]

ALJ: [REDACTED] I'm so sorry. [REDACTED] Social Security number [REDACTED] day's hearing date is April the 9th of 2010. The claimant filed applications for Title II and Title XVI on October 22nd of 2008. Her alleged onset date is January 23rd of 2007, and her date last insured for Title II purposes only is March 31st of 2012. The claimant has a combination of impairments as noted in the record. Partial/complex seizure disorder, sleep apnea disorder, lumbar disk disease, bursitis of the right shoulder, headaches, depression, asthma, and morbid obesity. As noted, the claimant does not meet or equal one of the listings. Dr [REDACTED] testified the claimant would not have restrictions of daily living, but had moderate limitations or restrictions of maintaining social functioning and concentration, persistence and pace. The combination of the claimant's impairments result in a maximum residual functional capacity for less than a full range of unskilled sedentary work. This is based on the combination of her impairments with consideration under Social Security ruling 0201P,

and that's the ruling of obesity. When you have someone who is morbidly obese with a 55.8 body mass index, you look at how the other functioning systems of their body are affected by their size, or their weight.

REP: Right.

ALJ: In this case we have a seizure issue, we have hypertension, we have a lumbar disk issue, we also have asthma. So when you look at all those in combination, it begins to erode the occupational base under 968P and 9P which are Social Security rulings of which you could work. And this was the testimony provided by the vocational expert. He identified your past work as light, medium and heavy, and semiskilled. However he indicated there would be no jobs that you could -- you could not return to your past job or any other jobs given this residual functional capacity I've outlined. I'm also going to recommend a medical re-evaluation in 24 months. I have approved the fee agreement with _____

_____, I'm going to let you come up here and look at this. It is handwritten and I do apologize for that. I type much better than I write something out. You can review it. Everything that I've read into the record is identified in that checklist. If you have any objections to the checklist, you need to state them now. If not, we're going to have that scanned in. You'll need to give it back to me and I'll scan it into the record after this hearing. It will go in as Exhibit 5A. And we're allowing _____ the opportunity to review the bench checklist. Any objections?

REP: No objections, Your Honor.

ALJ: Okay. All right, you'll need to give it back to me if you're concluded. Anything further you or your client would like to add on the record?

CLMT: No.

REP: No, Your Honor.

ALJ: All right. Thank you, [REDACTED] for being patient with us.

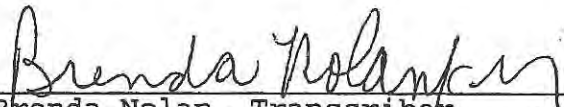
CLMT: Thank you.

ALJ: And coming and providing your testimony. And with nothing further to add, then we'll close the hearing and go off the record.

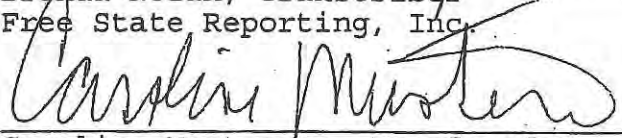
(The hearing closed at 10:47 a.m. on April 9, 2010.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge Tracy S. Guice.



Brenda Nolan, Transcriber
Free State Reporting, Inc.



Caroline Musterman, Proofreader
Free State Reporting, Inc.

Social Security Administration
Supplemental Security Income
Notice of Disapproved Claim

120 EXECUTIVE PARK LN
SELMA AL 36701

Date: September 2, 2008
Claim Number: [REDACTED]

* Application Filed *
August 13, 2008

* Type of Claim *
Individual-Disabled

You cannot get Supplemental Security Income (SSI) for the reason given below.

Why We Can't Pay You

- We find that you have resources worth more than \$2,000.00 for August 2008 on.

For you to receive SSI payments, the resources that you own cannot be worth more than \$2,000.00 for August 2008 on. We call this amount the limit on resources.

Resources are the things that you own such as cash, stocks, bank accounts, certain types of life insurance, buildings, and land on which you do not live. We do not include as resources the home in which you live, one car used for transportation and some other things.

- We explain on the last page of this letter how we decided that you are not eligible for SSI because of resources that are over the limit.

09/02/2008

How You May Be Able To Receive SSI

Although your resources would prevent you from receiving payments, you may still be able to receive SSI while you are trying to sell your resources if all of the following are true.

- The value of cash, including savings, and other things you have that can easily be changed into cash is less than \$1,911.00.
- You have other things that cannot easily be changed into cash and these things make your resources too high. Examples of such things are a building or land on which you do not live.
- You will sign a written agreement which allows you to receive SSI payments while you are trying to sell the property that causes your resources to be over the limit.
- You agree to repay any SSI payments which you receive while trying to sell the property.

If you think all of these are true about you, and you want to receive SSI payments, please contact the local Social Security office.

Information About Medicaid And Other Benefits

- An agency of your State will advise you about the Medicaid program. If you have any questions about your eligibility for Medicaid or need immediate medical assistance, you should get in touch with the State agency which handles eligibility for medical assistance.
- You may want to contact your local public assistance office to find out if you qualify for payments from them.

You Can Review The Information in Your Case

The decisions in this letter are based on the law. You have a right to review and get copies of the information in our records that we used to make the decisions explained in this letter. You also have a right to review and copy the laws, regulations and policy statements used in deciding your case. To do so, please contact us. Our telephone number and address are shown under the heading "If You Have Any Questions."

Things To Remember

- Because you are not eligible for the reasons given above, we have not determined whether or not you are disabled.
- If at any time in the future you think you qualify for payment, please contact us immediately about filing a new application. The earliest month for which we can pay you is the month after you file a new application.

09/02/2008

If You Disagree With The Decision

If you disagree with the decision, you have the right to appeal. We will review your case and consider any new facts you have.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- To appeal, you must fill out a form called "Request for Reconsideration." The form number is SSA-561. To get this form, contact one of our offices. We can help you fill out the form.

How To Appeal

There are two ways to appeal. You can pick the one you want. If you meet with u⁴ in per⁴on, it may he⁴p u⁴ eci⁴e your ca⁴e.

- Ca⁴e Re⁴iew. You have a right to review the facts in your file. You can give us more facts to add to your file. Then we'll decide your case again. You won't meet with the person who decides your case. This is the only kind of appeal you can have to appeal a medical decision.
- Informa⁴ Conference. You'll meet with the person who decides your case. You can tell that person why you think you're right. You can give us more facts to help prove you're right. You can bring other people to help explain your case.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your SSI Claim." It contains more information about the appeal.

If You Want Help With Your Appeal

You can have a friend, representative or someone else help you. There are grou⁴p⁴ that can he⁴p you fin⁴ a repre⁴entati⁴e or i⁴e you free⁴ a⁴ er⁴ice⁴ if you u⁴a⁴ify. There are also representatives who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing you might lose some benefits, or not qualify for any benefits. So, if you disagree with this decision, you should ask for an appeal within 60 days.

If You Have Any Questions

For general information about SSI, visit our website at www.socialsecurity.gov on the Internet. You will find the law and regulations about SSI eligibility and SSI payment amounts at www.socialsecurity.gov/SSIRules/.

For general questions about SSI or specific questions about your case, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 334-875-0587. Our lines are busiest early in the week and early in the month, so if your business can wait, it's best to call at other times. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
120 EXECUTIVE PARK LN
SELMA AL 36701

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

We are sending you a pamphlet which contains important information you should know. The pamphlet is called "Your Right To Question The Decision Made On Your SSI Claim."



Paul D. Barnes
Regional Commissioner

Enclosure(s):
Pub 05-11008

09/02/2008

HOW WE FIGURED YOUR INELIGIBILITY FOR August 2008 ON

You are not eligible for SSI for August 2008 on because your resources are worth more than the \$2,000.00 resources limit. On the first day of August 2008 you owned the following items which count toward the resources limit.

Your Resources That We Count	
1995 CHEVROLET Truck	\$2,000.00
1995 PONTIAC Truck	\$2,200.00
Your Resources That We Count	<u>\$4,200.00</u>
SSI Resources Limit for an Individual	-\$2,000.00
Amount Over the Resource Limit	<u>\$2,200.00</u>

IMPORTANT REMINDERS

We counted only the resources listed above. We generally do not count the value of a home, one vehicle, and a burial fund of up to \$1,500.00. Contact your local Social Security office if you have questions about how we determined the value of your resources or wish to report that the value has changed.

If your resources shown above are reduced below \$2,000.00, you may become eligible for SSI benefits. If you give away or sell resources for less than they are worth, you could be ineligible for SSI for up to 36 months. Contact your local Social Security office for information about how disposing of resources affects eligibility for SSI.

Social Security Administration
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim

DATE: 09/26/2008

Claim Number: [REDACTED]
WE's Number: [REDACTED]

Telephone: [REDACTED]

[REDACTED]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

We have enclosed information about the disability rules and more details about the decision on your claim.

ABOUT THE DECISION

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

IF YOU DISAGREE WITH THE DECISION

If you disagree with this decision, you have the right to request a hearing. We will review your case and consider any new facts you have. A person who has not seen your case before will look at it.

- * You have 60 days to ask for a hearing.
- * The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- * You must have a good reason for waiting more than 60 days to ask for an appeal.
- * You have to ask for a hearing in writing. We will ask you to complete a form HA-501-U2, called "Request for Hearing." You may contact one of our offices or call 1-800-772-1213 to request this form. Or you may complete this form online at: <http://www.socialsecurity.gov/disability/appeal>. Contact one of our offices if you want help.

Social Security Administration
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim

- * In addition, you should complete a "Disability Report-Appeal" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online after you complete the online Request for Hearing.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the hearing.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- * You might lose some benefits, or not qualify for any benefits, and
- * We could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

IF YOU WANT HELP WITH YOUR APPEAL

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee.

OTHER BENEFITS

Based on the application you filed, you are not entitled to any other benefits, besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again. (THIS SECTION DOES NOT APPLY TO YOU IF YOU HAVE ANOTHER SOCIAL SECURITY CLAIM PENDING.)

**Social Security Administration
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim**

IF YOU HAVE ANY QUESTIONS

If you have any questions, you may call us toll-free at 1-800-772-1213 or call your local Social Security office at the number shown on page 1. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

120 EXECUTIVE PARK LANE
SELMA AL 36701

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.

Regional Commissioner

Enclosures:

SSA Pub. No.05-10058
Explanation of Decision
Disability Rules Factsheet

Social Security Administration
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim

RULES FOR SOCIAL SECURITY DISABILITY

You must meet certain rules to qualify for Social Security disability benefits:

FOR DISABLED WORKER'S BENEFITS:

You must have the required work credits and your health problems must:

- * keep you from doing any kind of substantial work (described below), and
- * last, or be expected to last, for at least 12 months in a row, or result in death.

FOR DISABLED CHILD'S BENEFITS:

You must be age 18 or older and your health problems must:

- * begin before age 22 or you must become disabled again within 7 years after the month that your earlier period of disability ended, and
- * keep you from doing any kind of substantial work (described below), and
- * last, or be expected to last, for at least 12 months in a row, or result in death.

FOR DISABLED WIDOW'S, WIDOWER'S OR SURVIVING DIVORCED SPOUSE'S BENEFITS:

You must be at least age 50, and your health problems must:

- * keep you from doing any kind of substantial work (described below), and
- * last, or be expected to last, for at least 12 months in a row, or result in death, and
- * have started before the end of a special period.

The special period starts with the latest of:

- ***the month your spouse died, or
- ***the month your Social Security benefits as a parent ended, or
- ***the month your earlier period of widow(er)'s disability ended.

The special period ends at the close of the 84th month (7 years) after the month it started.

Social Security Administration
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim

INFORMATION ABOUT SUBSTANTIAL WORK

Generally, substantial work is physical or mental work you are paid to do. Work can be substantial even if it is part-time. To decide if your work is substantial, we consider the nature of the job duties, the skills and experience you need to do the job, and how much you actually earn.

Usually, we find that your work is substantial if your gross earnings average over \$830 per month after we deduct allowable amounts. This monthly amount is higher for Social Security disability benefits due to blindness.

Your work may be different than before your health problems began. It may not be as hard to do and your pay may be less. However, we may still find that your work is substantial under our rules.

If you are self-employed, we consider the kind and value of your work, including your part in the management of the business, as well as your income, to decide if your work is substantial.

NON-ENGLISH SPEAKING INFORMATION

If you do not speak English, or do not speak English well, we will provide you with an interpreter at no cost to you. Or, you may wish to bring your own interpreter with you such as a friend or family member. If you want us to provide an interpreter, please tell us ahead of time.

EXPLANATION OF DETERMINATION

CAR

Name of Claimant	M/E's Name (If CDB or DWB)	SSN	Type of Claim
[REDACTED]	[REDACTED]	[REDACTED]	INDIB

The evidence listed was used in evaluating your claim.

[REDACTED] Report Received 09/23/08
[REDACTED] Consultative Exam 09/10/08

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You state that you are disabled because of high blood pressure, a bad back, arthritis in your knees and hand, acid reflux, eye problems, and chest pain. The evidence shows that you have some restrictions. Your restrictions prevent you from performing your past work as a ~~carpenter~~ as you describe this work. However, your restrictions do not preclude you from performing that type of work as it is normally performed in the national economy.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

PHYSICAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

CLAIMANT: [REDACTED]		SOCIAL SECURITY NUMBER: [REDACTED]	
NUMBERHOLDER (IF CDB CLAIM):		[REDACTED]	
PRIMARY DIAGNOSIS: HTN	RFC ASSESSMENT IS FOR:		
SECONDARY DIAGNOSIS: GERD	<input checked="" type="checkbox"/> Current Evaluation	<input type="checkbox"/> Date	<input type="checkbox"/> Date
OTHER ALLEGED IMPAIRMENTS: BACK, WRIST, KNEE PROBLEMS, CP, ASTHMA	<input type="checkbox"/> Date Last Insured: _____ (Date)	12 Months After Onset: _____ (Date)	
	<input type="checkbox"/> Other (Specify): _____		

PRIVACY ACT NOTICE: The information requested on this form is authorized by Section 223 and Section 1633 of the Social Security Act. The information provided will be used in making a decision of this claim. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with Federal laws requiring the exchange of information between Social Security and other agencies.

PAPERWORK REDUCTION ACT: This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 20 minutes to read the instructions, gather the facts, and answer the questions. *You may send comments on our time estimate above to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.*

I. LIMITATIONS:

For Each Section A - F

- ➔ Base your conclusions on **all evidence** in file (clinical and laboratory findings; symptoms; observations, lay evidence; reports of daily activities; etc.).
- ➔ Check the blocks which reflect your **reasoned judgement**.
- ➔ Describe how the **evidence substantiates your conclusions** (Cite specific clinical and laboratory findings, observations, lay evidence, etc.).
- ➔ Ensure that you have:
 - Requested appropriate treating and examining source statements regarding the individual's capacities (DI 22505.000ff. and DI 22510.000ff.) and that you have given appropriate weight to **treating source conclusions** (See Section III.).
 - Considered and responded to **any alleged limitations imposed by symptoms** (pain, fatigue, etc.) attributable, in your judgement, to a medically determinable impairment. Discuss your assessment of symptom-related limitations in the explanation for your conclusions in A - F below (See also Section II.).
 - Responded to all allegations of physical limitations or factors which can cause physical limitations.
- ➔ **Frequently** means occurring one-third to two-thirds of an 8-hour workday (cumulative, not continuous). **Occasionally** means occurring from very little up to one-third of an 8-hour workday (cumulative, not continuous).

A. EXERTIONAL LIMITATIONS

None established. (Proceed to section B.)

1. Occasionally lift and/or carry (including upward pulling)

(maximum) - when less than one-third of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 20 pounds
 50 pounds
 100 pounds or more

2. Frequently lift and/or carry (including upward pulling)

(maximum) - when less than two-thirds of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 25 pounds
 50 pounds or more

3. Stand and/or walk (with normal breaks) for a total of -

- less than 2 hours in an 8-hour workday
 at least 2 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 medically required hand-held assistive device is necessary for ambulation

4. Sit (with normal breaks) for a total of -

- less than about 6 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 must periodically alternate sitting and standing to relieve pain or discomfort. (If checked, explain in 6.)

5. Push and/or pull (including operation of hand and/or foot controls) -

- unlimited, other than as shown for lift and/or carry
 limited in upper extremities (describe nature and degree)
 limited in lower extremities (describe nature and degree)

6. Explain how and why the evidence supports your conclusions in item 1 through 5.

Cite the specific facts upon which your conclusions are based.

59 YOF

9/08 MED CE PE: 132/83 171#, NL HABITUS, WD, NAD, MUSCLE TONE AND STRENGTH NL W/O ATROPHY OR ABNL MOVEMENT, CNS INTACT, MOTOR STRENGTH SYM W/O OBVIOUS WEAKNESSES. SENSATION INTACT-BIL TO LIGHT TOUCH AND PAIN, OBSERVED DEXTERITY W/O ATAXIA OR TREMOR, DTRs FULL/SYM-BIL, GAIT COORDINATED AND SMOOTH.

MSK: FROM ALL 4 EXTs; C/S, T/S, T/C/L SPINE, L/S ALL WNL/FROM W/ EXCEPTION OF L/S WAS ELICITED BY EXTREME ROM; KNEES, WRISTS ALSO FROM, NO PAIN NOTED. NEURO-MOTOR W/O ANY DYSFUNCTION; PREFERENCE FOR R-HANDEDNESS OBSERVED, NO INVOLUNTARY MOVEMENTS

Continued on Page 3

6. Continue (NOTE: MAKE ADDITIONAL COMMENTS IN SECTION IV)
WERE SEEN. ABLE TO WALK ON TOES/HEELS W/O TROUBLE. BUE-FROM; NL BALANCE, GAIT AND STANCE, AND REFLEXES; 5/5 BIL UE/LE; PSY WNL. ASSESS/PLAN: NEEDS SOME PHYSIOTHERAPY FOR LBP AND WRIST/KNEE PROBLEMS. HER REFLUX AND ASTHMA ARE WELL CONTROLLED

7/18-20/08 D/C DX CP--MI R/O, UNCONTROLLED HTN; NONCOMPLIANCE; ARTHRITIS. PE: 178/95, WDNW, NAD, COARSE BS W/O CRACKLES AND WHEEZING; RRR;, NO PEDAL EDEMA, HAS A L-CALF HEALED WOUND; EKG-NSR. ASSESS: CP--ADMT TO R/O MI; MALIGNANT HTN; NONCOMPLIANCE; H/O GERD

B. POSTURAL LIMITATIONS

None established. (Proceed to section C.)

	Frequently	Occasionally	Never
1. Climbing - ramp/stairs _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- ladder/rope/scaffolds _____▶	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Balancing _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Stooping _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Kneeling _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Crouching _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Crawling _____▶	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. When less than two-thirds of the time for frequently or less than one-third for occasionally, fully describe and explain. Also explain how and why the evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based.			

C. MANIPULATIVE LIMITATIONS

None established. (Proceed to section D.)

- | | LIMITED | UNLIMITED |
|---|----------------------------|--------------------------|
| 1. Reaching all directions (including overhead) _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Handling (gross manipulation) _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Fingering (fine manipulation) _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Feeling (skin receptors) _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Describe how the activities checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in item 1 through 4. Cite the specific facts upon which your conclusions are based. | | |

D. VISUAL LIMITATIONS

None established. (Proceed to section E.)

- | | LIMITED | UNLIMITED |
|--|----------------------------|--------------------------|
| 1. Near acuity _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Far acuity _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Depth perception _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Accommodation _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Color vision _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Field of vision _____ | ▶ <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Describe how the faculties checked "limited" are impaired. Also explain how and why the evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based. | | |
- MED CE: VISION L-20/30 R-20/30-40 OU-20/50

Continued on Page 5

E. COMMUNICATIVE LIMITATIONS

None established. (Proceed to section F.)

- | | LIMITED | UNLIMITED |
|---------------------|--------------------------|--------------------------|
| 1. Hearing _____ → | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Speaking _____ → | <input type="checkbox"/> | <input type="checkbox"/> |
3. Describe how the faculties checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in items 1 and 2. Cite the specific facts upon which your conclusions are based.

F. ENVIRONMENTAL LIMITATIONS

None established. (Proceed to section II.)

- | | UNLIMITED | AVOID
CONCENTRATED
EXPOSURE | AVOID EVEN
MODERATE
EXPOSURE | AVOID ALL
EXPOSURE |
|--|-------------------------------------|-------------------------------------|------------------------------------|-------------------------------------|
| 1. Extreme cold _____ → | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Extreme heat _____ → | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Wetness _____ → | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Humidity _____ → | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Noise _____ → | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Vibration _____ → | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Fumes, odors,
dusts, gases,
poor ventilation,
etc. _____ → | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Hazards
(machinery,
heights, etc.) _____ → | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

9. Describe how these environmental factors impair activities and identify hazards to be avoided. Also, explain how and why the evidence supports your conclusions in items 1 through 8. Cite the specific facts upon which your conclusions are based.

Continued on Page 6

ii. SYMPTOMS

For symptoms alleged by the claimant to produce physical limitations, and for which the following have not previously been addressed in section I, discuss whether:

- A. The symptom(s) is attributable, in your judgment, to a medically determinable impairment.
- B. The severity or duration of the symptom(s), in your judgment, is disproportionate to the expected severity or expected duration on the basis of the claimant's medically determinable impairment(s).
- C. The severity of the symptom(s) and its alleged effect on function is consistent, in your judgment, with the total medical and nonmedical evidence, including statements by the claimant and others, observations regarding activities of daily living, and alterations of usual behavior or habits.

ALSO SEE A6

MDIs HAVE VEEN ESTAB FOR CP, HTN, GERD, ASTHMA, AND PROBS W/ LOW BACK, WRIST, AND KNEE W/O ANY SIG. LROM

ADLS REVEALS MOD LIMITIATIONS DUE TO PAIN AND REQUIRES SOME ASSISTANCE; HOWEVER, S/S APPEARS TO BE PARTIALLY CONSISTENT W/ FINDINGS

Continued on Page 7

III. TREATING OR EXAMINING SOURCE STATEMENT(S)

A. Is a treating or examining source statement(s) regarding the claimant's physical capacities in file?

Yes

No (Includes situations in which there was no source or when the source(s) did not provide a statement regarding the claimant's physical capacities.)

B. If yes, are there treating/examining source conclusions about the claimant's limitations or restrictions which are significantly different from your findings?

Yes

No

C. If yes, explain why those conclusions are not supported by the evidence in file. Cite the source's name and the statement date.

SOURCE: [REDACTED] PER 9/10/08 CE "SHE CAN PERFORM ALL ACTIVITIES W/O ASSISTANCE. SHE NEEDS TO HAVE SOME PHYSIOTHERAPY FOR HER LOWER BACK PROBLEM AS WELL AS WRIST KNEE PROBLEMS. HER REFLUX PROBLEM AND ASTHMA ARE WELL CONTROLLED.

MSS ACKNOWLEDGED

Continued on Page 8

IV. ADDITIONAL COMMENTS:

THESE FINDINGS COMPLETE THE MEDICAL PORTION OF THE DISABILITY DETERMINATION.

MEDICAL CONSULTANT'S SIGNATURE:

MEDICAL CONSULTANT'S CODE:

DATE:

Excuse From Work/School

Patient's [REDACTED]

Patient has been under my care since: 02-01-07

Patient will be unable to attend work/school starting: 02-01-07

Patient's anticipated return date is: 02-12-07

Reason: Injury Illness Maternity

Is reason work related: Yes No

Briefly describe injury or illness: MULTIPLE INJURIES CONNECTED WITH
JOB FALL ON 12-21-06

[REDACTED]
[REDACTED]
[REDACTED]

02-01-07

Date Signed

[REDACTED]
Telephone Number

[Signature]

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Z12053 12/05

DC [REDACTED]
LOC/SVC: [REDACTED] ROOM: 605

ADMIT [REDACTED]
ADMISSION DATE: 07/18/2008
DISCHARGE DATE: 07/20/2008

DISCHARGE SUMMARY

DATE OF ADMISSION: 07/18/2008
DATE OF DISCHARGE: 07/20/2008

FINAL DIAGNOSIS

1. Chest pain--myocardial infarction ruled out.
2. Uncontrolled hypertension.
3. Noncompliance.
4. Arthritis.

DISCHARGE CONDITION: Improved.

DISCHARGE DIET: Low-fat/low-cholesterol.

DISCHARGE ACTIVITY: As tolerated.

DISCHARGE MEDICATIONS: Clonidine 0.1 mg p.o. t.i.d., Pepcid 20 mg p.o. b.i.d., Motrin 400 mg p.o. t.i.d. for 3 days, Vicodin 5 one tablet p.o. q.6h. p.r.n.

The patient will be followed up with _____ n one to two weeks.

HOSPITAL COURSE: This is [REDACTED] year-old black female who used to have a history of hypertension and D. _____ is her physician. She apparently presented to the ER with complaint of frontal chest pain, but patient also complained of pain all over her body, including back, bilateral ribs, and lower extremities. The patient initially was found to have uncontrolled hypertension with BP 178/95. The patient has been taking blood pressure medication for quite some time. The patient was admitted for treatment. Later, the patient had 3 sets of negative EKGs and troponin I and anti-hypertensive medication was adjusted. On the discharge day, the patient felt much better. Motrin has been given for chronic arthritic pain. The patient's pain seems to be improving. The patient was then considered to be stable for discharge and will need to have close outpatient follow-up. Detailed instructions were given. Discharge time spent was 31 minutes.

2008-Jul-20 12:58 PM [redacted] ee

19/20
EXHIBIT NO. 4
PAGE: 48 OF 88

[redacted]
PAGE: 3

[redacted]
MR NUM [redacted]

T:DATE: 07/18/2008 19:52
D:DATE: 07/18/2008 17:35
JOB #: 114076

[redacted]

[REDACTED]
MRN [REDACTED]

DOE [REDACTED]

Date of Service: 09/10/2008

Reason For Visit

Disabled secondary to Hbp, back pain, arthritis in knees/hand, acid reflux, eye problem.

HPI

DD [REDACTED] NP is here for disability determination secondary to

1) HEADACHE [REDACTED] NP complains of a headache.

LOCATION: Bilateral

QUALITY / CHARACTER: Patient describes symptoms as dull. Patient reports symptoms are getting worse.

SEVERITY: Moderate

DURATION / ONSET: Symptoms started about 20 years ago.

TIMING: Sudden onset 10 times per Month]

MODIFYING FACTORS: Symptoms are triggered by nothing. Symptoms are relieved by nothing.

ASSOCIATED SYMPTOMS: Vision Changes, Photophobia

2) GERD

QUALITY / CHARACTER: Her symptoms are getting worse.

SEVERITY: Moderate

DURATION / ONSET: Symptoms started 3 years ago.

TIMING: The symptoms are intermittent. They occur after meals.

MODIFYING FACTORS: The symptoms seem to improve with upright posture, antacids.

ASSOCIATED SYMPTOMS: Wheezing and chest discomfort in the presternal area and radiating towards throat.

3) ASTHMA : She has had no interval significant asthma episodes or ED visits.

QUALITY / CHARACTER: Symptoms have been better recently.

SEVERITY: Mild She is rarely using her rescue inhaler.

DURATION / ONSET: Patient has had asthma symptoms 1 times over the past week.

TIMING: Wheezing occurs 10 times per month. Wheezing does not cause patient to wake from sleep.

MODIFYING FACTORS: Symptoms are triggered by nothing. they get relieved by OTC meds. She takes meds for cold and cough and her wheezing subsides.

ASSOCIATED SYMPTOMS: None.

4) HYPERTENSION: The patient presents with of hypertension.

QUALITY / CHARACTER: Patient reports symptoms are stable.

SEVERITY: Home blood pressures have been greater than 160/100.

MODIFYING FACTORS:

--Patient has not been following a reduced sodium diet.

She is not getting adequate exercise.

She is not taking antihypertensive medications correctly. because she has no money.

ASSOCIATED SYMPTOMS: none

Patient
MRN

5) BACK PAIN [REDACTED] complains of low back pain.

LOCATION: Pain does not radiate.

QUALITY / CHARACTER: Patient describes pain as dull. Patient reports pain is getting worse.

SEVERITY: Moderate Rates pain on a scale of 1-10 as 5.

DURATION / ONSET: Patient has had back pain for 3 years

CONTEXT: Pain at rest.

MODIFYING FACTORS: Symptoms are triggered by bending,] lifting. Symptoms are relieved by rest. Recent injury? no

ASSOCIATED SYMPTOMS: None.

she said that there is 4-5 disc prolapse for which I didnt have documentation from her records which i have.

6) KNEE PAIN: The patient complains of pain in the left knee.

LOCATION: She states the pain is over the patella, diffuse. The pain does not radiate.

QUALITY / CHARACTER: The patient describes the pain as dull. Patient reports the pain is getting worse.

SEVERITY: Moderate Rates pain on a scale of 1-10 as 5.

DURATION / ONSET: Patient has had knee pain for 3 years.

MODIFYING FACTORS: The pain is worsened by weight bearing, walking, climbing stairs. The pain is relieved by rest. Injury? no

ASSOCIATED SYMPTOMS: None.

7) She has bilateral wrist pain. She has a trigger finger in rt ring finger. she cannot work with that hand because she gets pain if she works more with that hand. she cannot make a fist after some time as per history. she has similar problem with rt hand. no injury reported.

She is following [REDACTED] montgomery. She is taking vicodin 5/500 for pain, clonidine 0.1 mg tid, micardis hct for hyper tension and omeprazole for acid reflux problem.

Personal Hx

Behavioral history: No tobacco use and no previous history of smoking.

Alcohol: Not using alcohol.

Drug use: Not using drugs.

Habits: Not exercising regularly.

Home environment: The racial background is black.

Education: The highest level of education achieved: completed some college.

Work: Occupation Teacher aid.

Activities: Activities nothing much i be hurting to much.

Religious affiliation: Religion: Methodist.

Marital: Single.

PMH

History of hypertension (401.9).

History of asthma (493.90).

History of arthritis (716.90).

Family Hx

Hypertension

Heart disease

Patient

Asthma
Diabetes mellitus
Arthritis
Migraine headache.

PSH

Neg.

Allergies

No Known Drug Allergy.

ROS

Systemic symptoms: no general body aches and pains.

Head symptoms: No head symptoms. Headache present

Eye symptoms: none

Otolaryngeal symptoms: No otolaryngeal symptoms.

Cardiovascular symptoms: heart burn with acid reflux. presternal pain.hypertension.

Pulmonary symptoms: no SOB or coughing history of asthma

Gastrointestinal symptoms: No gastrointestinal symptoms

Genitourinary symptoms: No genitourinary symptoms

Endocrine symptoms: No endocrine symptoms

Musculoskeletal symptoms: low back pain and pain at the wrist bilaterally.Knee pain.

Neurological symptoms: No neurological symptoms

Psychological symptoms: none

Skin symptoms: No skin symptoms.

Vital Signs

Recorded by _____ on 10 Sep 2008 08:50 AM

BP:132/83, RUE, Sitting,

HR: 74 b/min, R Radial,

Weight: 171 lb.

Physical Exam**GENERAL APPEARANCE:** Normal habitus. Well developed, well groomed. Appears stated age. No acute distress. Color good.**MENTAL STATUS:** Appears alert and oriented. Affect appropriate.**SKIN:** Skin color and turgor normal. No suspicious lesions, masses, rashes, or ulcerations. Nails and hair appear normal.**HEAD:** Normocephalic.**EARS:** External ear w/o scars, masses, or lesions. External auditory canal intact, clear, and w/o lesions. TMs intact with normal light reflex and landmarks. Acuity to conversational tones good.**EYES:** PERRLA, extraocular movements intact. Lids w/o defect, conjunctiva and sclera appear normal. Fundi w/o papilledema, hemorrhage, exudates, or arterial abnormalities.**NOSE:** Nasal mucosa and turbinates pink, septum midline, no lesions.**MOUTH:** Teeth in good repair. Gums pink w/o lesions. Normal appearing mucosa, palate, and tongue.

Patient
M

OROPHARYNX: Moist w/o exudate, erythema, or swelling.

NECK: Symmetric, trachea midline. Thyroid nontender w/o enlargement or masses. Carotid pulses normal with no bruits. No cervical lymphadenopathy.

BREASTS: deferred as no complaints

CHEST: Respirations unlabored with normal diaphragmatic excursion. Chest wall symmetric with no masses. Breath sounds clear bilaterally w/o wheezes, rubs, rales, or rhonchi.

CV: Normal precordium and PMI w/o lifts, heaves, or thrills. Normal S1 and S2 w/o murmur, rub, gallop, or click. Capillary refill within 2 seconds. No edema, clubbing, or cyanosis. No varicosities. Radial, femoral, dorsalis pedis, and posterior tibial pulses full and symmetrical.

GI/ABDOMEN: Abdomen soft with normal bowel sounds. No guarding or rebound. No palpable masses or tenderness. Liver and spleen are w/o tenderness or enlargement. No aortic widening. No inguinal adenopathy.

GU: deferred as no complaints

RECTAL: deferred as no complaints

MS: Muscle tone and strength normal for age, w/o atrophy or abnormal movement.

NEUROLOGICAL: Cranial nerves II-XII intact. Motor strength symmetrical with no obvious weaknesses.

Superficial sensation intact bilaterally to light touch and pain. Observed dexterity w/o ataxia or tremor. Deep tendon reflexes full and symmetric bilaterally. Gait coordinated and smooth.

no need of stick or cane for assistance.

Musculoskeletal system:

General/bilateral: A range of motion evaluation was performed of extremity(s) (FROM in all 4 ext).

Musculoskeletal system:

Active flexion of the cervical spine 90 degrees

Active extension of the cervical spine 75 degrees

Active cervical spine rotation to the right 90 degrees

Active cervical spine rotation to the left 90 degrees

Active cervical spine lateral flexion to the left 45 degrees

Active cervical spine lateral flexion to the right 45 degrees

Cervical spine showed no tenderness on palpation

Cervical spine showed no instability

Cervical spine showed no weakness

Thoracic Spine:

General/bilateral:

Thoracic spine had a normal appearance

Thoracic spine exhibited no spasm of the paraspinal muscles

Thoracic spine exhibited no instability.

Thoracolumbar Spine (Motion):

General/bilateral:

Thoracolumbar spine demonstrated full range of motion

Thoracolumbar spine pain was not elicited by motion

[REDACTED]
M [REDACTED]

Thoracolumbar spine showed no instability

General/bilateral:

Active lumbosacral spine rotation to the left 60 degrees
Active lumbosacral spine rotation to the right 60 degrees
Active lumbosacral spine lateral flexion to the left 30 degrees
Active lumbosacral spine lateral flexion to the right 30 degrees

Lumbar / Lumbosacral Spine (Motion):

General/bilateral:

Lumbosacral spine demonstrated full range of motion
Lumbosacral spine flexion was normal
Lumbosacral spine extension was normal.
Lumbosacral spine pain was elicited by extreme range of motion.

wrist :

Dorsiflexion- 60 degrees bilateral
palmar flexion: 70 degrees bilateral
radial deviation : 20 degrees bilateral
ulnar deviation : 30 degrees bilateral

Knees :

flexion : 150 degrees bilateral
extension: 0 degrees bilateral.

Neurological:

Motor:

A motor exam demonstrated no dysfunction
A preference for right-handedness was observed
No involuntary movements were seen

Pt able to walk on toes and heels without trouble.

Upper ext: Full range of motion of arms, hands and fingers

Balance: Normal.

Gait And Stance: Normal.

Reflexes: Normal.

Muscle Strength:

Upper Ext:



Bilateral shoulder and forearm Flex/Ext 5/5
Bilateral Shoulder abduct/adduct 5/5
Bilateral internal/external rotation at shoulder 5/5
Bilateral supinate/pronate 5/5

Lower Ext:
Bilateral Hips flex/ext/abduct/adduct 5/5
Bilateral lower legs flex/extend 5/5
Bilateral ankles dorsi/plantar flex 5/5

Psychiatric Exam: Mood and affect congruent and was normal

No assistive devices uses

Results

SELMA In House Eye Exam 10 Sep 2008 03:33 PM
* Both Eyes are 20/50, 10 Sep 2008
- Left Eye OS: 20/30
- Right Eye OD: 20/30-40.

Assessment

• Visit: to issue a certificate of disability (V68.01)

Orders

SELMA In House Eye Exam.

Plan

She can perform all activities without assistance. she needs to have some physiotherapy for her lower back problem as well as wrist and knee problems. Her reflux problem and asthma are well controlled.


Level of Service

Established outpatient minimal service 99211

Signature

Signed By:  09/10/2008 8:54 AM CST.

Signed By:  09/10/2008 5:32 PM CST.

 09/10/08

Social Security Administration

Please read the back of the last copy before you complete this form.

Form Approved OMB No. 0960-0620 EXHIBIT NO. 4B PAGE: 2 OF 2

Name (Last, First, Middle Initial)	Social Security Number
Wage Earner (If Different)	Social Security Number

Part I APPOINTMENT OF REPRESENTATIVE

I appoint this person,

(Name and Address)

to act as my representative in connection with my claim(s) or asserted right(s) under:

- Title II (RSDI)
- Title XVI (SSI)
- Title XVIII (Medicare Coverage)
- Title VIII (SVB)

This person may, entirely in my place, make any request or give any notice; give or draw out evidence or information; get information; and receive any notice in connection with my pending claim(s) or asserted right(s).

I appoint or I now have, more than one representative. My main representative is

(Name of Principal Representative)

Signature (Client)	Address	
Telephone Number	Fax Number (with Area Code)	Date

Part II ACCEPTANCE OF APPOINTMENT

I, hereby accept the above appointment. I certify that I have not been suspended or prohibited from practice before the Social Security Administration; that I am not disqualified from representing the claimant as a current or former officer or employee of the United States; and that I will not charge or collect any fee for the representation, even if a third party will pay the fee, unless it has been approved in accordance with the laws and rules referred to on the reverse side of the representative's copy of this form. If I decide not to charge or collect a fee for the representation, I will notify the Social Security Administration. (Completion of Part III satisfies this requirement.)

Check one: I am an attorney. I am a non-attorney who is eligible to receive direct fee payment. I am not an attorney and I am ineligible to receive direct fee payment.

I have been disbarred or suspended from a court or bar to which I was previously admitted to practice as an attorney. YES NO

I have been disqualified from participating in or appearing before a Federal program or agency. YES NO

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge.

Signature (Representative)	Address	
Telephone Number (with Area Code)	Fax Number (with Area Code)	Date

Part III (Optional) WAIVER OF FEE

I waive my right to charge and collect a fee under sections 206 and 1631(d)(2) of the Social Security Act. I release my client (the claimant) from any obligations, contractual or otherwise, which may be owed to me for services I have provided in connection with my client's claim(s) or asserted right(s).

Signature (Representative)	Date
----------------------------	------

Part IV (Optional) WAIVER OF DIRECT PAYMENT

by Attorney or Non-Attorney Eligible to Receive Direct Payment

I waive only my right to direct payment of a fee from the withheld past-due retirement, survivors, disability insurance or supplemental security income benefits of my client (the claimant). I do not waive my right to request fee approval and to collect a fee directly from my client or a third party.

Signature (Attorney or Eligible Non-Attorney (for Direct Payment) Representative)	Date
---	------

Permanent Subcommittee on Investigations EXHIBIT #4g

FEE AGREEMENT

FEES FOR SERVICES

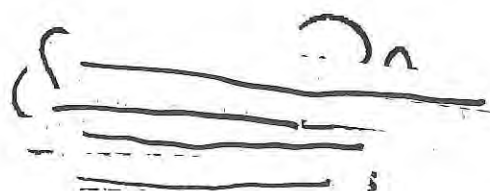
My representative and I understand that for a fee to be payable, the Social Security Administration (SSA) must approve any fee my representative charges or collects from me for services my representative provides in proceedings before SSA in connection with my claim(s) for benefits.

We agree that if SSA favorably decides the claim(s), I will pay my representative a fee equal to the lesser of 25 percent of the past-due benefits resulting from my claim(s), however fee is not to exceeds \$5300.00.

[For concurrent Titles II and XVI benefits] We understand that Social Security past-due benefits are the total amount of money to which I [and my auxiliary beneficiary(ies)] become entitled through the month before the month SSA effectuates a favorable administrative determination or decision on my Social Security claim and that Supplemental Security income (SSI), past-due benefits are the total amount of money for which I become eligible through the month SSA effectuates a favorable administrative determination or decision on my SSI claim.

I will pay the costs of obtaining any medical records, or reimburse my representative for any expenditures made on my behalf (except for postage and stationary costs). We have both received signed copies of this agreement.


CLAIMANT



DATE: 10/10/08

NH [REDACTED]

: UNIT: [REDACTED] :
: :
: :
: :
: :
: :
: :
: :
: :
: :

[REDACTED]

REQUEST FOR HEARING BY ADMINISTRATIVE LAW JUDGE

On October 10, 2008, we talked with you and completed your REQUEST FOR HEARING for SOCIAL SECURITY BENEFITS. We stored your REQUEST FOR HEARING information electronically in our records and attached a summary of your statements.

What You Need To Do

- o Review your REQUEST FOR HEARING to ensure we recorded your statements correctly.
- o If you agree with all your statements, you may retain the REQUEST FOR HEARING for your records.
- o If you disagree with any of your statements, you should contact us within 10 days after the date of this notice to let us know.

MY NAME IS [REDACTED]

MY SOCIAL SECURITY NUMBER IS [REDACTED]

I REQUEST A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE. I DISAGREE WITH THE DETERMINATION MADE ON MY CLAIM FOR DISABILITY-WORKER OR CHILD BENEFITS BECAUSE MY CONDITIONS HAVE NOT IMPROVED. I AM UNABLE TO MAINTAIN GAINFUL EMPLOYMENT. I AM 59 YEARS OLD AT THIS TIME.

I AM SUBMITTING ADDITIONAL EVIDENCE WITH THIS REQUEST.

I WISH TO APPEAR AT A HEARING. I UNDERSTAND THAT AN ADMINISTRATIVE LAW JUDGE OF THE OFFICE OF DISABILITY ADJUDICATION AND REVIEW WILL BE APPOINTED TO CONDUCT THE HEARING OR OTHER PROCEEDINGS IN MY CASE. I ALSO UNDERSTAND THAT THE ADMINISTRATIVE LAW JUDGE WILL SEND ME NOTICE OF THE TIME AND PLACE OF A HEARING AT LEAST 20 DAYS BEFORE THE DATE SET FOR A HEARING.

IT COULD BE ESPECIALLY USEFUL IN MY CASE SINCE THE ADMINISTRATIVE LAW JUDGE WOULD HAVE AN OPPORTUNITY TO HEAR AN EXPLANATION AS TO HOW MY IMPAIRMENTS PREVENT ME FROM WORKING AND RESTRICT MY ACTIVITIES.

NH [REDACTED]

I AM REPRESENTED BY [REDACTED] WHO IS AN ATTORNEY.

MY PHONE NUMBER IS [REDACTED]

DATE October 10, 2008.

CLINICAL ASSESSMENT OF PAIN

PATIENT [REDACTED]

Please answer the following questions as they relate to the patient named above according to your best judgment.

1. To what extent is pain of significance in the treatment of this patient? (circle letter)

A	B	C	D
Pain is not present to a significant degree.	Pain is present but does not prevent functioning in every-day activities or work.	Pain is present to such an extent as to be distracting to adequate performance of daily activities or work.	Pain is present and found to be intractable and virtually incapacitating to this individual.

2. To what extent will physical activity, such as walking, standing, bending, stooping, moving or extremities, etc., increase the level of pain experienced by this patient? (circle letter).

A	B	C	D
No increase in pain whatsoever.	Some increase but not to such an extent as to prevent adequate functioning in such tasks.	Greatly increased pain and to such a degree as to cause distraction from task or total abandonment of task.	Increase of pain to such an extent that bed rest and/or medication is necessary.

3. To what extent will the prescribed medication impact upon this patient's ability to work? (circle letter)

A	B	C	D
Should be able to perform full job duties without any decrease in work effectiveness.	Some limitations may be present but not to such a degree as to create serious problems in most instances.	Drug side effects can be expected to be severe and to limit effectiveness due to distraction, inattention, drowsiness, etc	Patient will be totally restricted and unable to function at a productive level of work.

4. Can this patient's medical condition reasonably be expected to produce the pain complained of?

Yes No

Comments: _____

Date: 01-06-10

Physician Signature _____

MD

(The following is a transcript in the hearing held before Vincent P. Intoccia, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on January 7, 2010, at Selma, Alabama, in the case of [REDACTED], Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED], Attorney. Also present was [REDACTED], Vocational Expert.)

(The hearing commenced at 8:44 a.m. on January 7, 2010.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: The claim of [REDACTED] Social Security Number [REDACTED]. Her Attorney is also here, [REDACTED]. We have [REDACTED] as a VE today. We have two new paper exhibits we're going to have to scan into the e-file. The first one is from [REDACTED] (Phonetic) and that will be Exhibit 4F. The second one is from [REDACTED] G. [REDACTED] (Phonetic). And that will be Exhibit 5F. Any objection, question, comments about any of those exhibits?

ATTY: No, Judge.

ALJ: We'll go ahead and admit into the record then Exhibit 1A through 10B, through 5D, through 9E, through 5F.

(Exhibits, previously identified, were received into evidence and made a part of the record thereof.)

ALJ: Did you have an opening?

ATTY: Judge, we believe this Claimant would meet Grid Rule 201.06 based on the fact that the Claimant is over the age of 55 and there's significant job adjustment after the age of 55.

ALJ: Okay. And I really don't have any questions for [REDACTED] unless you do?

ATTY: No, Judge.

ALJ: Swear you in, Doctor? Can we enter the typical

Permanent Subcommittee on Investigations

EXHIBIT #4j

stipulations for the VE?

ATTY: Yes, sir.

ALJ: Is there anything, Doctor, you need to know?

VE: No, sir.

(The Vocational Expert, _____ having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Could you identify those three jobs that _____ performed during the period at issue by job title, exertional, and skill level?

A Yes, sir. She has worked as a _____ It's considered light work by DOT standards and is skilled at an SVP:6. The DOT is _____. The other, another job is _____ I as in Roman Numeral I, light work in exertion, skilled at an SVP:6. The DOT number is _____. And then a _____ light work in exertion, unskilled at an SVP:2 and the DOT is _____.

Q And there's transferable skills with job one and two?

A Yes, sir, from the skilled jobs there's -- they're transferable down to sedentary.

Q And at age 55, Doctor, would it be true there'd be significant vocational adjustment?

A I would believe so. Yes, sir.

Q And there's no transferable skills, of course, with a courier?

A Correct.

Q Everything's consistent with the DOT?

A It is.

Q Let's assume a hypothetical individual, same vocational

profile as [REDACTED] during the period at issue. Let's assume that such an individual could perform a full range of sedentary work activity and then let's superimpose on top of that the pain assessment by [REDACTED] otherwise set forth at Exhibit 5F, dated 1/6/2010. If we superimpose those non-exertional limitations by the pain on top of the, the full range of sedentary work activity, could someone under those facts and circumstances go back to any of those three jobs or any other jobs?

A No, sir, neither.

Q What stands out to you, Doctor?

A Well, on [REDACTED] pain assessment he, on, on the first and second factor he gave a, a C and a D. D says pain is present and found to be intractable and virtually incapacitating to the individual. On the, the second factor he also listed a C and a D. D says the increase of pain to such an extent that bed rest and/or a medication is necessary upon physical activity. And then the third factor, the, he indicated a, a C evaluation. To what extent will side effects impact upon the ability? The drug side effects can be expected to be severe and to limit effectiveness due to distraction, inattention, and drowsiness, etcetera. So that would preclude employment.

ALJ: Thank you, Doctor. Questions, [REDACTED]

ATTY: No, Judge.

ALJ: Did you have a closing?

ATTY: No, Judge.

ALJ: And you've had the opportunity to look over Exhibit 2A --

ATTY: Yes.

ALJ: -- which is ALJ Bench Decision Check Sheet?

ATTY: Yes, Judge.

ALJ: Any objection, question, comments?

ATTY: No, Judge.

ALJ: We'll go ahead and admit that into the record as Exhibit 2A. And after review of the available evidence of record it appears that a wholly favorable Bench Decision can be issued in this particular claim. This claim is a Title II Claim. It was filed 8/13/08. The onset date's listed as 8/15/07. There's under SGA work activity in '08, which is not preclusive of going through the rest of the sequential evaluation process steps. Essential, [REDACTED] is entitled to a Step Five finding within the framework of Grid Rule 201.06 and also is correlated with the testimony of the Vocational Expert enlisted during the hearing who, after classifying the jobs she performed during the period at issue, was requested to assume a hypothetical individual, same vocational profile as [REDACTED]. He was then requested to assume a full range of sedentary work activity and then superimpose non-exertional limitations and restrictions from one of the treating physicians otherwise found in Exhibit 5F, dated 1/6/2010. He was then presented with two questions. Number one, could someone return to any of those past jobs and number two, if not, could they perform other jobs. He testified in the negative essentially based upon the combination of pain and side effects set forth at Exhibit 5F. And as such [REDACTED] has been disabled since the onset date. It's noted that although transferable skills exist at

jobs one and two, per the VE there is significant vocational adjustment at age 55 and, as such, Grid Rule, the framework of Grid Rule 201.06 still applies. And this would be further associated with Social Security Ruling 82.41 that permits such. This concludes the hearing procedure. Thank you, [REDACTED]


ATTY: Thank you, Judge.

CLMT: Thank you.

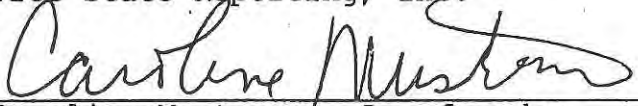
(The hearing closed at 9:13 a.m. on January 7, 2010.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge Vincent P. Intoccia.



Nancy K. Kayser, Transcriber
Free State Reporting, Inc.



Caroline Musterman, Proofreader
Free State Reporting, Inc.



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
4344 Carmichael Rd
Suite 200
Montgomery, AL 36106-3730

Date: January 25, 2010

[REDACTED]

NOTICE OF DECISION FULLY FAVORABLE

I have made a fully favorable decision in your case. My decision is based on your period of disability and disability insurance benefits application filed on August 13, 2008.

I announced the basis for my decision at the hearing held on January 7, 2010. I adopt here those findings of fact and reasons.

To summarize briefly, I found you disabled as of August 15, 2007 because of arthritis; obesity; hypertension; GERD; asthma; degenerative disc disease L4-L5; spinal stenosis; and glaucoma so severe that you are unable to perform any work existing in significant numbers in the national economy.

If you want more information about my decision, you or your representative should file a written request for this information at any local Social Security office or a hearing office. Please include the Social Security number shown above on your request. If you ask for it, we will provide you with a record of my oral decision at the hearing.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another office may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

Permanent Subcommittee on Investigations

EXHIBIT #4k

Form HA-L82 (03-2007)

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you or your representative must request the Appeals Council to review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time To File An Appeal

To file an appeal, you must file your request for review within 60 days from the date you get this notice:

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time To Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider with your request for review.

How An Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulations exists. Section 404.970 and 416.1470 of the regulation list these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal And No Appeals Council Review

[REDACTED]

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (334)875-0587. Its address is Social Security, 120 Executive Park Ln, Selma, AL 36701-7734.

/s/ Vincent P. Intoccia

Vincent P. Intoccia
Administrative Law Judge

January 25, 2010

Date

Enclosures:
Form HA-L15 (Fee Agreement Approval)

cc:

[REDACTED]

ALJ Bench Decision Checksheet - Print Version

Claimant Name: [REDACTED] SSN: [REDACTED]

DIB Application Date: 8-13-08 Hearing Date: 1-7-2010

SSI Application Date: N/A DWB Application Date: _____

Date Last Insured: 9-30-2010 Established Onset Date: 8-15-07

EOD is AOD Amended AOD Current Appl. Date Prior Appl. Date
(SSI Only) (SSI Only)

Prior Application Reopened Not Reopened

Prior Application Date(s): T2 _____ T16 _____

Reason for Reopening Within one year Good cause Grounds for reopening at any time

Work After Onset UWA Not SGA TWP

Severe Impairment(s) (singly or in combination): Arthritis; Obesity; [REDACTED]
HTN; GERD; Asthma; DDD L4-L5; Spinal Stenosis; G1AU coma.

Impairment(s) MEETS Listing # _____

Impairment(s) EQUALS Listing # _____

Child is Functionally Equal to Listings

Mrk Extr

- 1. Acquiring and Using Information
- 2. Attending and Completing Tasks
- 3. Interacting with Others

Mrk Extr

- 4. Moving about and Manipulating objects
- 5. Caring for Self
- 6. Health and Physical Well-being

Mental Impairment Analysis (Part B)

- Restriction of Activities of Daily Living None Mild Moderate Marked Extreme
- Difficulties Maintaining Social Functioning None Mild Moderate Marked Extreme
- Difficulties Maintaining Concentration-Pace None Mild Moderate Marked Extreme
- Episodes of Decompensation None One or Two Three Four or More

Mental Impairment Analysis (Part C)

- 12.02, 12.03, or 12.04 w/ 2 yrs med. history & more than minimal limitation &
 - Residual disease process w/ marginal adjustment so that minimal changes cause decomp.
 - Current Hx. 1+years in highly supportive living arrangement w/ continuing need for same
 - Repeated episodes of decompensation, each of extended duration
- 12.06 (inability to function independently outside area of home)

* Unemployment in 08+09 = not SGA
v under SGA (self-employment) 08 = not SGA

MENTAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

NAME

SOCIAL SECURITY NUMBER

CATEGORIES (From 1C of the PRTF)

12.05

ASSESSMENT IS FOR:

Current Evaluation 12 Months After Onset:

Date Last Insured: 03/31/2005 _____ (Date) _____ (Date)

Other: _____ (Date) to _____ (Date)

I. SUMMARY CONCLUSIONS

This section is for recording summary conclusions derived from the evidence in file. Each mental activity is to be evaluated within the context of the individual's capacity to sustain that activity over a normal workday and workweek, on an ongoing basis. Detailed explanation of the degree of limitation for each category (A through D), as well as any other assessment information you deem appropriate, is to be recorded in Section III (Functional Capacity Assessment).

If rating category 5 is checked for any of the following items, you **MUST** specify in Section II the evidence that is needed to make the assessment. If you conclude that the record is so inadequately documented that no accurate functional capacity assessment can be made, indicate in Section II what development is necessary, but **DO NOT COMPLETE SECTION III.**

	Not Significantly Limited	Moderately Limited	Markedly Limited	No Evidence of Limitation in this Category	Not Ratable on Available Evidence
A. UNDERSTANDING AND MEMORY					
1. The ability to remember locations and work-like procedures.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
2. The ability to understand and remember very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
3. The ability to understand and remember detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
B. SUSTAINED CONCENTRATION AND PERSISTENCE					
4. The ability to carry out very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
5. The ability to carry out detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
6. The ability to maintain attention and concentration for extended periods.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
7. The ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
8. The ability to sustain an ordinary routine without special supervision.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
9. The ability to work in coordination with or proximity to others without being distracted by them.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
10. The ability to make simple work-related decisions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>

	Not Significantly Limited	Moderately Limited	Markedly Limited	No Evidence of Limitation in this Category	Not Ratable on Available Evidence
--	---------------------------	--------------------	------------------	--	-----------------------------------

Continued — SUSTAINED CONCENTRATION AND PERSISTENCE

- | | | | | | |
|--|--|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 11. The ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
|--|--|-----------------------------|-----------------------------|-----------------------------|-----------------------------|

C. SOCIAL INTERACTION

- | | | | | | |
|---|--|--|-----------------------------|-----------------------------|-----------------------------|
| 12. The ability to interact appropriately with the general public. | 1. <input type="checkbox"/> | 2. <input checked="" type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 13. The ability to ask simple questions or request assistance. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 14. The ability to accept instructions and respond appropriately to criticism from supervisors. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 15. The ability to get along with coworkers or peers without distracting them or exhibiting behavioral extremes. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 16. The ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |

D. ADAPTATION

- | | | | | | |
|---|--|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 17. The ability to respond appropriately to changes in the work setting. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 18. The ability to be aware of normal hazards and take appropriate precautions. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 19. The ability to travel in unfamiliar places or use public transportation. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |
| 20. The ability to set realistic goals or make plans independently of others. | 1. <input checked="" type="checkbox"/> | 2. <input type="checkbox"/> | 3. <input type="checkbox"/> | 4. <input type="checkbox"/> | 5. <input type="checkbox"/> |

II. REMARKS: If you checked box 5 for any of the preceding items or if any other documentation deficiencies were identified, you **MUST** specify what additional documentation is needed. Cite the item number(s), as well as any other specific deficiency, and indicate the development to be undertaken.

Continued on Page 3

Continued on Page 4

III. FUNCTIONAL CAPACITY ASSESSMENT

Record the elaborations on the preceding capacities in this section. Complete this section ONLY after the SUMMARY CONCLUSIONS section has been completed. Explain your summary conclusions in narrative form. Include any information which clarifies limitation or function. Be especially careful to explain conclusions that differ from those of treating medical sources or from the individual's allegations.

Can perform only simple tasks with routine supervision. Can relate on a superficial work basis.

Continued on Page 4

THESE FINDINGS COMPLETE THE MEDICAL PORTION OF THE DISABILITY DETERMINATION.

MEDICAL CONSULTANT'S SIGNATURE

DATE:





Continuation Sheet – Indicate section(s) being continued.

Privacy Act Notice: The information requested on this form is authorized by Section 223 and Section 1633 of the Social Security Act. The information provided will be used in making a decision on this claim. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and other agencies.

Paperwork Reduction Act: This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 20 minutes to read the instructions, gather the facts, and answer the questions. *You may send comments on our time estimate above to: SSA, 1338 Armet Building, Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.*

PSYCHIATRIC REVIEW TECHNIQUE

Name _____	SSN _____
NH (if different from above) _____	SSN _____

I. MEDICAL SUMMARY

A. Assessment is from: 05/01/2002 to current

B. Medical Disposition(s):

1. No Medically Determinable Impairment
2. Impairment(s) Not Severe
3. Impairment(s) Severe But Not Expected to Last 12 Months
4. Meets Listing _____ (Cite Listing)
5. Equals Listing _____ (Cite Listing)
6. RFC Assessment Necessary
7. Coexisting Nonmental Impairment(s) that Requires Referral to Another Medical Specialty
8. Insufficient Evidence

C. Category(ies) Upon Which the Medical Disposition is Based:

1. 12.02 Organic Mental Disorders
2. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders
3. 12.04 Affective Disorders
4. 12.05 Mental Retardation
5. 12.06 Anxiety-Related Disorders
6. 12.07 Somatoform Disorders
7. 12.08 Personality Disorders
8. 12.09 Substance Addiction Disorders
9. 12.10 Autism and Other Pervasive Developmental Disorders

These findings complete the medical portion of the disability determination.

MC/PC's Signature _____	Date _____
MC/PC's Printed Name _____	Code _____

Permanent Subcommittee on Investigations

EXHIBIT #5b

II. DOCUMENTATION OF FACTORS THAT EVIDENCE THE DISORDER

A. 12.02 Organic Mental Disorders

Psychological or behavioral abnormalities associated with a dysfunction of the brain ... as evidenced by at least one of the following:

1. Disorientation to time and place
2. Memory impairment
3. Perceptual or thinking disturbances
4. Change in personality
5. Disturbance in mood
6. Emotional lability and impairment in impulse control
7. Loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan, etc.

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

B. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders

Psychotic features and deterioration that are persistent (continuous or intermittent), as evidenced by at least one of the following:

1. Delusions or hallucinations
2. Catatonic or other grossly disorganized behavior
3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:
 - a. Blunt affect, or
 - b. Flat affect, or
 - c. Inappropriate affect
4. Emotional withdrawal and/or isolation

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

C. 12.04 Affective Disorders

Disturbance of mood, accompanied by a full or partial manic or depressive syndrome, as evidenced by at least one of the following:

1. Depressive syndrome characterized by at least four of the following:

- a. Anhedonia or pervasive loss of interest in almost all activities, or
- b. Appetite disturbance with change in weight, or
- c. Sleep disturbance, or
- d. Psychomotor agitation or retardation, or
- e. Decreased energy, or
- f. Feelings of guilt or worthlessness, or
- g. Difficulty concentrating or thinking, or
- h. Thoughts of suicide, or
- i. Hallucinations, delusions or paranoid thinking

2. Manic syndrome characterized by at least three of the following:

- a. Hyperactivity, or
- b. Pressures of speech, or
- c. Flight of ideas, or
- d. Inflated self-esteem, or
- e. Decreased need for sleep, or
- f. Easy distractibility, or
- g. Involvement in activities that have a high probability of painful consequences which are not recognized, or
- h. Hallucinations, delusions or paranoid thinking

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above
Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment (explain in Part IV, Consultant's Notes, if necessary):

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

D. 12.05. Mental Retardation

Significantly subaverage general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period; i.e., the evidence demonstrates or supports onset of the impairment before age 22; with one of the following:

1. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow instructions such that the use of standardized measures of intellectual functioning is precluded*
2. A valid verbal, performance, or full scale IQ of 59 or less*
3. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function*
4. A valid verbal, performance, or full scale IQ of 60 through 70*

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder Learning Disorder, borderline intellectual functioning

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

*NOTE: Items 1, 2, 3, and 4 correspond to listings 12.05A, 12.05B, 12.05C, and 12.05D, respectively.

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

E. 12.06 Anxiety-Related Disorders

Anxiety as the predominant disturbance or anxiety experienced in the attempt to master symptoms, as evidenced by at least one of the following:

1. Generalized persistent anxiety accompanied by three of the following:
 - a. Motor tension, or
 - b. Autonomic hyperactivity, or
 - c. Apprehensive expectation,
 - d. Vigilance and scanning

2. A persistent irrational fear of a specific object, activity or situation which results in a compelling desire to avoid the dreaded object, activity, or situation

3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror, and sense of impending doom occurring on the average of at least once a week

4. Recurrent obsessions or compulsions which are a source of marked distress

5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

F. 12.07 Somatoform Disorders

Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms, as evidenced by at least one of the following:

1. A history of multiple physical symptoms of several years duration beginning before age 30, that have caused the individual to take medicine frequently, see a physician often and alter life patterns significantly
2. Persistent nonorganic disturbance of one of the following:
 - a. Vision, or
 - b. Speech, or
 - c. Hearing, or
 - d. Use of a limb, or
 - e. Movement and its control (e.g., coordination disturbances, psychogenic seizures, akinesia, dyskinesia), or
 - f. Sensation (e.g., diminished or heightened)
3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury.

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

G. 12.08 Personality Disorders

Inflexible and maladaptive personality traits which cause either significant impairment in social or occupational functioning or subjective distress, as evidenced by at least one of the following:

1. Seclusiveness or autistic thinking
2. Pathologically inappropriate suspiciousness or hostility
3. Oddities of thought, perception, speech and behavior
4. Persistent disturbances of mood or affect
5. Pathological dependence, passivity, or aggressivity
6. Intense and unstable interpersonal relationships and impulsive and damaging behavior

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above:

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

H. 12.09 Substance Addiction Disorders

Behavioral changes or physical changes associated with the regular use of substances that affect the central nervous system.

If present, evaluate under one or more of the most closely applicable listings:

1. Listing 12.02-Organic mental disorders*
2. Listing 12.04-Affective disorders*
3. Listing 12.06-Anxiety-related disorders*
4. Listing 12.08-Personality disorders*
5. Listing 11.14-Peripheral neuropathies*
6. Listing 5.05-Liver damage*
7. Listing 5.04-Gastritis*
8. Listing 5.08-Pancreatitis*
9. Listing 11.02 or 11.03-Seizures*

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

*NOTE: Items 1,2,3,4,5,6,7,8, and 9 correspond to listings 12.09A, 12.09B, 12.09C, 12.09D, 12.09E, 12.09F, 12.09G, 12.09H, and 12.09I, respectively. If items 1, 2, 3, or 4 are checked, only the numbered items in subsections IIA, IIC, IIE, or IIG of the form need be checked. The first block under the disorder heading in those subsections should not be checked, unless the evidence substantiates the presence of the disorder separate from the substance addiction disorder.

I. 12.10 Autistic Disorder and Other Pervasive Developmental Disorders

Qualitative deficits in the development of reciprocal social interaction, in the development of verbal and nonverbal communication skills, and in imaginative activity. Often there is a markedly restricted repertoire of activities and interests, which frequently are stereotyped and repetitive.

1. Autistic disorder, with medically documented findings of all of the following:

- a. Qualitative deficits in reciprocal social interaction
- b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity
- c. Markedly restricted repertoire of activities and interests

2. Other pervasive developmental disorders, with medically documented findings of both of the following:

- a. Qualitative deficits in reciprocal social interaction
- b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder _____

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

III. RATING OF FUNCTIONAL LIMITATIONS

A. "B" Criteria of the Listings

Indicate to what degree the following functional limitations (which are found in paragraph B of listings 12.02-12.04, 12.06-12.08 and 12.10 and paragraph D of 12.05) exist as a result of the individual's mental disorder(s):

NOTE: Item 4 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

Specify the listing(s) (i.e., 12.02 through 12.10) under which the items below are being rated 12.05

FUNCTIONAL LIMITATION	DEGREE OF LIMITATION					
	None	Mild	Moderate	Marked*	Extreme*	
1. Restriction of Activities of Daily Living	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
2. Difficulties in Maintaining Social Functioning	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
3. Difficulties in Maintaining Concentration, Persistence, or Pace	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
4. Episodes of Decompensation, Each of Extended Duration	<input checked="" type="checkbox"/>		One or Two <input type="checkbox"/>	Three* <input type="checkbox"/>	Four* or More <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>

*Degree of limitation that satisfies the functional criterion.

B. "C" Criteria of the Listings

1. Complete this section if 12.02 (Organic Mental), 12.03 (Schizophrenic, etc.), or 12.04 (Affective) applies and the requirements in paragraph B of the appropriate listing are not satisfied.

NOTE: Item 1 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

Medically documented history of a chronic organic mental (12.02), schizophrenic, etc. (12.03), or affective (12.04) disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do any basic work activity, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement with an indication of continued need for such an arrangement.

Evidence does not establish the presence of the "C" criteria

Insufficient evidence to establish the presence of the "C" criteria (explain in Part IV, Consultant's Notes).

2. Complete this section if 12.06 (Anxiety-Related) applies and the requirements in paragraph B of listing 12.06 are not satisfied.

Complete inability to function independently outside the area of one's home

Evidence does not establish the presence of the "C" criterion

Insufficient evidence to establish the presence of the "C" criterion (explain in Part IV, Consultant's Notes).

IV. CONSULTANT'S NOTES

26 years old alleges poor reading, spelling, developmental delay and learning disorder. No known mental Health treatment past or current. Ce exam shows verbal scores of 66, performance of 78 and full scale of 69. Claimant retain ability to do simple work.

Section 223 and section 1633 of the Social Security Act authorize the information requested on this form. The information provided will be used in making a decision on this claim. Completion of this form is mandatory in disability claims involving mental impairments. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and another agency.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information about you may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 15 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE.** To find the nearest office, call 1-800-772-1213. *Send only comments on our time estimate above to: SSA, 6401 Security Boulevard, Baltimore, MD 21235-6401.*

PSYCHOLOGICAL EVALUATION

NAME: [REDACTED]
DATE OF BIRTH: [REDACTED]
AGE: 26 years
AN: [REDACTED]
DATE OF TESTING: [REDACTED]
DATED OF REPORT: [REDACTED]

Today's testing and interview respondent was referred by the Disability Determination Division of the Oklahoma Department of Rehabilitation Services. The Wechsler Adult Intelligence Scale-Third Edition (WAIS III) testing and brief mental status exam interview were conducted on an outpatient basis in a private office environment. The claimant came alone to the interview. She drove but she got lost.

The claimant is a 26-year-old [REDACTED] female. She was short in stature and obese in build. She is pregnant and her baby is due the end of October. Her grooming was below average. Dress was soiled. Posture was unremarkable. Gait was typical. Motor behavior was restless and fidgety. Ambulation was unassisted. The informant was the claimant.

The claimant completed the 12th grade in high school. She was in special education classes all through school. She has never been married. She lives with her four children. She does not currently have a job. She last worked at a [REDACTED] for less than one week. The job ended because she was told she wasn't fit for the job.

Physical and medical problems include hypertension. She is also currently pregnant. She is supposed to take medication for hypertension but she doesn't.

Mental and emotional problems are described by her mother as being crazy and retarded. She does not use alcohol or drugs. She was in trouble with the police when she and a friend were accused of shoplifting. She thought the friend was going to pay for the merchandise. She can't get along with her brother and has tried to hurt him.

She was able to correctly write her name, age and today's date. Her speech was fully comprehensible.

Affect and behavior were observed to be fairly talkative, fidgety and serious. She was cooperative with the examiner. Attention was focused. Effort and motivation were good. Results are interpreted as being valid. Observations of adaptive behavior and interpersonal style suggest a level of functioning that is consistent with the obtained IQ score.

The claimant is judged to be incapable of handling any awarded benefits in a responsible manner.

The claimant's current level of intellectual functioning was at the top of the EXTREMELY LOW range, as reflected by a Full Scale IQ score of 69 on the WAIS-III. The Verbal IQ score of 66 was in the EXTREMELY LOW range. The Performance (Visual-Motor) IQ score of 78 was in the BORDERLINE range. There was a not quite significant difference of twelve points between the Verbal and Performance IQ scores. Subtest scores ranged from 3 to 9, slightly above the average range of variability.

DSM IV Diagnosis

Axis I: Learning Disorder NOS
Axis II: None
Axis III: Hypertension, Pregnancy
Axis IV: Occupational; Familial
Axis V: GAF = 45

Health Service Psychologist (Clinical)

Social Security Administration

SSA-4268

EXPLANATION OF DETERMINATION

NAME OF CLAIMANT	W/E's NAME (IF CDB or DWB)	SSN	CLAIM TYPE
[REDACTED]		[REDACTED]	DI

26 years old alleges poor reading and spelling skills, developmental delay and learning disorder. Claimant received a Mental PRTF and MRFC assessment for simple work.

[REDACTED]

[REDACTED]

(The following is a transcript in the hearing held before Ralph L. Wampler, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on May 13, 2008, at Oklahoma City, Oklahoma, in the case of [REDACTED] [REDACTED] Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED]. Also present was [REDACTED] Medical Expert.)

(The hearing commenced at 8:38 a.m. on May 13, 2008.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: We'll go on the record.

HA: We're on the record.

ALJ: [REDACTED], as you know, we're under a short timeframe, so what --

ATTY: Yes, sir.

ALJ: The documents here in the file have been marked for identification as Exhibits 1A through 7F. I propose to receive these into evidence. Any objections to their admission?

ATTY: No objections, Your Honor.

ALJ: Let the record show that Exhibits 1A through 7F are received into evidence.

(Exhibits 1A through 7F, previously identified, were received into evidence and made a part of the record thereof).

ALJ: Thank you. [REDACTED] I'm going to take the medical expert's testimony first and see where we are in this case.

ATTY: That's fine, Your Honor.

(The Medical Expert, Dr. [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Dr. [REDACTED], state your name and occupation, please.

A [REDACTED] (Phonetic). I'm a licensed clinical psychologist.

Q And you've been furnished with a copy of the medical documents, have you not?

A Yes, I have.

Q What do those documents show the Claimant suffers from?

A This individual has a diagnosis of mild mental retardation and a diagnosis of a learning disorder. It's my opinion that she meets 12.05.

Q 12.05. Okay. Now, can you address the B criteria (Phonetic)?

A Yes, Your Honor. In restrictions of daily, daily living activities, I believe there's a mild restriction.

Q Uh-huh.

A In maintaining social functioning, I believe there is a moderate limitation.

Q Uh-huh.

A In maintaining concentration, persistence, or pace, there's a marked to extreme restriction.

Q Okay. And then episodes of deterioration?

A I don't have -- Your Honor, she's living in a pretty restricted environment --

Q Uh-huh.

A -- and, and not doing things that are, are causing these to occur and I don't have any -- I have very limited documentation, actually, but I don't have documentation.

Q Okay.

A So, I'd just say I don't have enough information.

Q Now, she alleges that she became disabled May 1st of 2004.

Was she at that level of severity at that time?

A Yes, Your Honor. This is has been a lifelong issue.

Q Okay. Would you recommend a payee?

A Yes, I would.

Q Okay.

ALJ: _____ I don't see a need of going any further unless there's something you want to call to my attention.

ATTY: No, Your Honor. I'm happy.

ALJ: All right. I'll take the matter under advisement. The hearing is closed at 20 -- 19 minutes till 9:00. Thank you, and you all are excused.

CLMT: Thank you.

(The hearing closed at 8:41 a.m. on May 13, 2008.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of _____ before Administrative Law Judge Ralph L. Wampler.

Karen Galvez

Karen M. Galvez, Transcriber
Free State Reporting, Inc.

Caroline Musterman

Caroline Musterman, Proofreader
Free State Reporting, Inc.

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated _____. The claimant appeared and testified at a hearing held on _____ in Oklahoma City, OK. _____, an impartial medical expert, also appeared at the hearing. The claimant is represented by _____ an attorney.

The claimant is alleging disability since May 1, 2004.

The decision on the claimant's prior Title II application filed on _____ is being reopened and revised. The initial determination on the prior Title II application was issued within 4 years of the filing date of the current applications and good cause for reopening is established. New and material evidence has been submitted (20 CFR 404.988 *et seq.*). The decision on the prior Title XVI application has not been reopened because the current applications were not filed within 2 years of the notice of initial determination (20 CFR 416.1488 *et seq.*).

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through March 31, 2005. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from May 1, 2004 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do her past relevant work,

the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)); the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is March 31, 2005.
2. The claimant has not engaged in substantial gainful activity since May 1, 2004, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).
3. The claimant has the following severe impairment(s): mental retardation (20 CFR 404.1520(c) and 416.920(c)).
4. The severity of the claimant's mental retardation meets the criteria of section(s) 12.05 of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d) and 416.920(d)).

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

A psychological evaluation was performed [REDACTED] and is shown below:

Today's testing and interview respondent was referred by the Disability Determination Division of the Oklahoma Department of Rehabilitation Services. The Wechsler Adult Intelligence Scale-Third Edition (WAIS III) testing and brief mental status exam interview were conducted on an outpatient basis in a private office environment. The claimant came alone to the interview. She drove but she got lost.

The claimant is a 26-year-old female. She was short in stature and obese in build. She is pregnant and her baby is due the end of October. Her grooming was below average. Dress was soiled. Posture was unremarkable. Gait was typical. Motor behavior was restless and fidgety. Ambulation was unassisted. The informant was the claimant.

The claimant completed the 12th grade in high school. She was in special education classes all through school. She has never been married. She lives with her four children. She does not currently have a job. She last worked at a [redacted] for less than one week. The job ended because she was told she wasn't fit for the job.

Physical and medical problems include hypertension. She is also currently pregnant. She is supposed to take medication for hypertension but she doesn't.

Mental and emotional problems are described by her mother as being crazy and retarded. She does not use alcohol or drugs. She was in trouble with the police when she and a friend were accused of shoplifting. She thought the friend was going to pay for the merchandise. She can't get along with her brother and has tried to hurt him.

She was able to correctly write her name, age and today's date. Her speech was fully comprehensible.

Affect and behavior were observed to be fairly talkative, fidgety and serious. She was cooperative with the examiner. Attention was focused. Effort and motivation were good. Results are interpreted as being valid. Observations of adaptive behavior and interpersonal style suggest a level of functioning that is consistent with the obtained IQ score.

The claimant is judged to be incapable of handling any awarded benefits in a responsible manner.

The claimant's current level of intellectual functioning was at the top of the **EXTREMELY LOW** range, as reflected by a Full Scale IQ score of 69 on the WAIS-III. The Verbal IQ score of 66 was in the **EXTREMELY LOW** range. The Performance (Visual-Motor) IQ score of 78 was in the **BORDERLINE** range. There was a not quite significant difference of twelve points between the Verbal and Performance IQ scores. Subtest scores ranged from 3 to 9, slightly above the average range of variability.

DSM IV Diagnosis:

- Axis I: Learning Disorder NOS
- Axis II: None
- Axis III: Hypertension, Pregnancy
- Axis IV: Occupational; Familial
- Axis V: GAF = 45

Health Service Psychologist (Clinical)

Name of Patient: [REDACTED]

JKA/02

CAPABILITY OPINION

In your opinion is the patient able to manage benefit payments in his/her own interest?

YES _____

NO X

	NOT Significantly Limited	Moderately Limited	Markedly Limited	NO EVIDENCE of Limitation in this Category	NOT HATABLE on Available Evidence
A. UNDERSTANDING AND MEMORY					
1. The ability to remember locations and work-like procedures.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
2. The ability to understand and remember very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
3. The ability to understand and remember detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
B. SUSTAINED CONCENTRATION AND PERSISTENCE					
4. The ability to carry out very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
5. The ability to carry out detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>

██████████ testified at the hearing that the claimant's impairment has met the criteria of Listing 12.05C all of her life. The evidence shows that the claimant was in special education, has a verbal IQ of 66, a learning disorder, and a GAF of 45. The undersigned concurs with ██████████ assessment.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment(s) could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

5. The claimant has been under a disability, as defined in the Social Security Act, from May 1, 2004 through at least the date of this decision (20 CFR 404.1520(d) and 416.920(d)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on ██████████, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on May 1, 2004.

Based on the application for supplemental security income protectively filed on ██████████, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act beginning on May 1, 2004.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

A determination to appoint a representative payee to manage payments in the claimant's interest is recommended.



Ralph L Wampler
U.S. Administrative Law Judge

RLW/DAW

[REDACTED]

Date



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date:

APR 25 2008

APR 25 2008

[REDACTED]

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so: To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

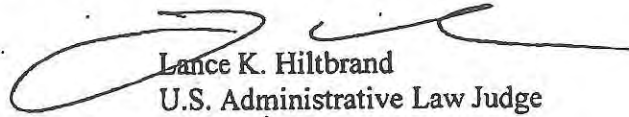
On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)605-3000. Its address is Social Security, 2615 Villa Prom, Shepherd Mall, Oklahoma City, OK 73107.


Lance K. Hiltbrand
U.S. Administrative Law Judge

cc:



**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance
Benefits

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the Administrative Law Judge on a request for hearing dated January 12, 2007. The claimant appeared and testified at a hearing held on March 20, 2008, in Oklahoma City, Oklahoma. _____ an impartial vocational expert, also appeared at the hearing. The claimant is represented by L _____ an attorney.

The claimant has amended the alleged onset date of disability to January 1, 2007, on advice of counsel (Hearing Testimony).

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2009. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the Administrative Law Judge finds that the claimant has been disabled from January 1, 2007 through the date of this decision. The Administrative Law Judge also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is

disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the Administrative Law Judge must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is

not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

1. The claimant's date last insured is December 31, 2009.
2. The claimant has not engaged in substantial gainful activity since January 1, 2007, the amended alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).
3. The claimant has the following severe impairments: status post right rotator cuff repair times two with postoperative pain in the right shoulder, neck, arm, and elbow; and cervical degenerative disc disease (20 CFR 404.1520(c)).

The above impairments cause significant limitation in the claimant's ability to perform basic work activities.

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).
5. After careful consideration of the entire record, the Administrative Law Judge finds that the claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b). She can occasionally lift and/or carry 20 pounds and frequently lift and/or carry 10 pounds. She can stand and/or walk (with normal breaks) about 6 hours of an 8-hour workday and sit (with normal breaks) 6 hours of an 8-hour workday. Her residual functional capacity for light work is diminished by significant nonexertional limitations, in that she has postural limitations of occasionally climbing, balancing, stooping, kneeling, crouching, and crawling. She is limited in the right hand and arm as to grasping and fingering in any work-related activities. She must avoid all concentrated exposure to unprotected heights and dangerous moving machinery. Additionally, she has a moderate to severe level of pain and fatigue affecting her ability to work in a competitive environment.

In making this finding, the Administrative Law Judge considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The Administrative Law Judge has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

The claimant's statements concerning her impairments and their impact on her ability to work are generally credible in light of the medical history, the reports of the treating and examining practitioners, the findings made on examination, her description of her activities and lifestyle, and the claimant's demeanor at hearing. The Administrative Law Judge finds that the claimant has an impairment that is reasonably expected to produce the type of pain and other symptomatology she alleges. The claimant testified she has an 11th grade education. The claimant stated that she is unable to work due to chronic pain in her right shoulder, arm, hand, and neck. She stated that her pain continues to get worse even though her physician has increased her pain medication. She testified that she has a TENS unit on her arm for pain. Her medication causes severe headaches and dizziness. The claimant denied most activities at the hearing and expressed frustration at her limited activities.

The medical evidence reflects that the claimant was injured on the job while working as _____ on November 29, 2003. The claimant was seen by Dr. _____ and had an MRI scan of the shoulder in June of 2004. The study showed a complete tear of the rotator cuff. Dr. _____ recommended surgery for rotator cuff repair as well as a subacromial decompression (Exhibit 10F).

In July of 2004, the claimant underwent a surgical procedure on the right shoulder and had a repair of the rotator cuff, a subacromial decompression, and a resection of the ligament (Exhibit 3F). Postoperatively, she had complaints of pain in her right arm, forearm and thumb. In August of 2004, the claimant was treated with physical therapy and placed on Bextra (Exhibit 9F). She continued to complain of the radiating pain down into the forearm and hand. She also complained of pain in the right side of the neck. The claimant stated that she had difficulty trying to lift, twist, push, or pull (Exhibit 2F).

The claimant continued to have chronic pain and limited mobility of her right shoulder and developed adhesive capsulitis. The claimant was evaluated by Dr. _____ in January of 2005, who recommended an EMG study. In November of 2005, it was noted that the EMG study within normal limits (Exhibits 7F, 10F, and 18F).

The claimant continued to have difficulty with some crepitation and pain. The claimant underwent a second arthroscopically assisted open repair of the rotator cuff in March of 2005. Surgery revealed a recurrent tear in the rotator cuff (Exhibit 3F). Postoperatively, the claimant received physical therapy, but continued to have pain in the shoulder, the neck, the arm, the forearm, and the hand. Physical therapy was discontinued in June of 2005 after it was noted to irritate the claimant's symptoms. A report dated July 27, 2005, noted residual nerve pain around the extremity and the supraclavicular neck area radiating down the forearm and into the median nerve distribution. This included the thumb, index, and long finger consistent with cervical radicular distribution (Exhibit 11F).

The claimant was re-evaluated by Dr. _____ on November 3, 2005. The claimant had a MRI scan of the cervical spine that showed some degenerative changes at C4-5, C5-6, and C6-7. The scan revealed bulging discs with central stenosis (Exhibit 15F). A bone scan in December of 2005 showed mild increased uptake noted around the right shoulder which could be attributed to

post surgery. In January of 2006, the claimant was sent to physical therapy and was prescribed Gabitril. The claimant also underwent stellate ganglion blocks without benefit (Exhibit 7F).

A MRI of the right elbow on May 19, 2006, showed slight degenerative changes at the ulnar joint with mild tendinopathy of the common extensor tendon (Exhibit 8F). A MRI of the right shoulder on May 19, 2006, showed chondromalacia of the superior portion of the joint and degenerative tearing of the glenoid labrum (Exhibit 15F). In May of 2006, it was noted that the EMG study was non-diagnostic for radial tunnel syndrome (Exhibit 7F).

On October 23, 2006, the claimant was evaluated by _____ in connection with her workers compensation claim. The claimant continued to complain of pain and weakness in the shoulder, forearm, elbow, and hand. Upon examination, tenderness was present in the brachium, olecranon, and epicondyle. Scarring consistent with surgery was noted with some atrophy. Tenderness was present about the shoulder with some crepitation. Mild tenderness was present in the wrist. _____ stated that the claimant was temporarily totally disabled and in need of additional medical treatment. He stated that the claimant should be evaluated for pain management on an ongoing basis (Exhibit 20F).

The claimant was referred to _____, in January of 2007 for pain management. _____ placed her on Relafen, Zanaflex, Lyrica, and Ultram. I _____ also prescribed a TENS unit. The claimant was seen several times in follow-up by I _____ and had her medication regimen changed and altered during her course of therapy. I _____ prescribed Nabumetone, Lyrica, Lortab, and Tizanidine. I _____ also prescribed a strict home exercise program (Exhibits 14F and 21F).

On September 13, 2007, the claimant was seen by I _____, in connection with her workers compensation claim. It was noted that the claimant continued to have chronic pain in her neck, right arm, shoulder, and hand. The claimant was unable to reach behind her back or lie on her shoulder. Upon examination, the right shoulder had surgical scars. There was limited flexion in the shoulder to 110 degrees, abduction 80 degrees, extension 15 degrees, adduction 15 degrees, external rotation 50 degrees, and internal rotation 30 degrees. There was tenderness to palpation of the shoulder and the shoulder was weak. Physical examination of the cervical spine revealed flexion 25 degrees, extension 20 degrees, right/left lateral flexion 15 degrees, right rotation 30 degrees, and left rotation 40 degrees. There was tenderness to palpitation of the paraspinal and trapezius muscles bilaterally. _____ opined that the claimant had sustained permanent and total economic disability for the performance of ordinary manual labor or for any job for which she was qualified by reason of past work experience. He stated that if she was not vocationally retrained, then she would be permanently and totally disabled. _____ stated that the claimant would require continued pain management (Exhibit 17F).

On October 4, 2007, _____ added an addendum to his report. He stated that the claimant's right arm pain was of sufficient severity that RSD was considered as being a cause. _____ stated that RDS was ruled out, but that the claimant may have sympathetically mediated pain syndrome. He also noted the claimant had degenerative and bulging discs in her cervical spine. He recommended that the claimant undergo a discogram (Exhibit 17F).

On January 23, 2008, the claimant was evaluated by _____ D. 1 recommended an updated MRI of her cervical spine (Exhibit 22F).

After considering the evidence of record, the Administrative Law Judge finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

On April 20, 2005, the claimant was released to return to light duty work with a 25 pound lifting restriction. It was also recommended that the claimant go to pain management (Exhibit 10F, page 32). On July 6, 2005, the claimant was released to return to light duty work with a 25 pound lifting restriction, restricted reaching, and no repetitive movements with the right hand. It was also recommended that the claimant go to pain management (Exhibit 10F, page 32). Subsequently on July 27, 2006, the claimant was released to return to light duty work with a 10 pound lifting restriction and no repetitive movements with the right hand. It was also recommended that the claimant go to pain management (Exhibit 10F, page 33). The Administrative Law Judge considered these opinions, but gave them slight weight since they were related to the times of claimant's surgeries. Light work was the most recent status in the record, and the Administrative Law Judge found this was consistent with the medical evidence of record (Exhibit 10F). The Administrative Law Judge included this in the residual functional capacity assessment.

The Administrative Law Judge considered the opinion of the treating physician, _____ 's assessment was that the claimant had multi-level cervical discogenic syndrome with right upper radicular pain. He noted that the claimant needed pain management in the form of maintenance to manage her episodes of severe pain (Exhibit 21F). The Administrative Law Judge considered _____ 's opinion and assigned it full weight since it was consistent with the evidence of record. The State agency medical opinions are given little weight because _____ 's opinion is more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints.

The objective medical evidence of record since January 1, 2007, support the claimant's allegations generally, and more specifically support the existence of the limitations reported. The Administrative Law Judge is persuaded that after considering the claimant's complaints of pain, it is reasonable to conclude that she is limited to the exertional requirements of no more than light work activity, with the additional nonexertional limitations cited above. Moreover, the Administrative Law Judge is persuaded that secondary to chronic pain, the claimant suffers from a moderate to severe level of pain and fatigue affecting her ability to perform in a competitive work environment.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The vocational expert testified that the claimant's past relevant work is classified in the Dictionary of Occupational Titles (DOT) as a cake decorator, skilled work (SVP of 6), and is described as light work in the DOT, and medium work as actually performed; counter sales and hand packaging, described as light, semi-skilled work (SVP of 3); and an accountant, described as sedentary, and skilled work (SVP of 8). At the hearing, the vocational expert responded to hypothetical questions of the Administrative Law Judge. She testified that based upon the claimant's residual functional capacity, the demands of the claimant's past relevant work exceed the residual functional capacity. Accordingly, the Administrative Law Judge finds that the claimant is unable to perform any past relevant work.

7. The claimant was a younger individual age 18-49 on the established disability onset date (20 CFR 404.1563).

8. The claimant has a limited education and is able to communicate in English (20 CFR 404.1564).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

In determining whether a successful adjustment to other work can be made, the Administrative Law Judge must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of light work, a finding of "not disabled" would be directed by rule 202.18. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled light occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience and residual functional capacity. The vocational expert testified that given all of these factors there are no jobs in the national economy that the individual could perform.

Oklahoma City, Oklahoma 73103

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American Board of Independent Medical Examiners
American College of Occupational Environmental Medicine
American Osteopathic College of Occupational and Preventive Medicine
American College of Osteopathic Family Physicians
American Academy of Disability Evaluating Physicians

October 24, 2007

R. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] aw
[REDACTED]

RE: Claimant: [REDACTED]
Insured: [REDACTED]
Claim Number: [REDACTED]
D/Injury: November 29, 2003

Dear [REDACTED]

The above person was re-examined in the office today. She has previously been examined in this office on October 25, 2004, for the evaluation of injuries which she stated occurred on November 29, 2003, while working for [REDACTED] in Edmond, as a [REDACTED]. The history was given by the claimant. She stated at approximately noon, she was standing on a two (2) to three (3) step stepladder. She stated she was on the second step stocking boxes of [REDACTED]. She stated she was on the last box and she shoved and pushed it with her right hand over her head and she felt a "pulling sensation" in her right arm to her right shoulder. She stated she completed her shift and she reported this injury to her supervisor. She stated she continued working through May 11, 2004. She denied seeking medical treatment and she continued working. She stated she thought she had just pulled a muscle in her right shoulder. She stated she continued lifting boxes and buckets of icing, weighing forty (40) pounds, which made the pain in her right shoulder worse. She stated she was examined by [REDACTED] in Edmond, on her own, on May 11, 2004, for examination of her right shoulder and he also sent her to an eye physician for blurring of her left eye. She stated laboratory testing was performed on May 12, 2004, and she was sent for x-rays of her right shoulder at a different facility which were obtained on

Permanent Subcommittee on Investigations

EXHIBIT #6b

a different day. She stated Vioxx, Flexeril, and another medication, the name of which she cannot recall, were prescribed and she was taken off work for one and one-half (1 1/2) weeks. She stated she was told the laboratory testing was normal but she does not know the results of the x-rays. She stated she remained off work. She stated she followed up with J [REDACTED] on May 14, 2004, and she was referred to [REDACTED] in Edmond, and she was continued off work through May 20, 2004. She stated she remained off work. She stated she returned to work on May 21, 2004, and she worked through May 24, 2004, and she took a leave absence so she could find out what was wrong with her right shoulder. She stated she returned to [REDACTED] on May 25, 2004, and she was continued off work and medications were prescribed. She stated she remained off work.

She stated on a date she cannot recall, she was examined by [REDACTED] and x-rays were obtained of her right shoulder but she does not know the results. She stated an MRI of her right shoulder was recommended and she was continued off work. She stated she cannot recall if medications were prescribed. She stated on June 8, 2004, an MRI of her right shoulder was performed at TPG MRI North in Oklahoma City. She stated she returned to I [REDACTED] on June 14, 2004, and the MRI was reviewed and she was told she had a torn rotator cuff. She stated surgery was recommended to her right shoulder and she was continued off work. She stated on July 20, 2004, outpatient surgery was performed to her right shoulder by J [REDACTED] at the North Surgery Center in Oklahoma City. She stated she was released from the hospital and her right arm was placed in a sling and medications were prescribed and she was continued off work. She stated she followed up with [REDACTED] one (1) week after surgery and then weekly due to pain in her right thumb. She stated a Medrol Dose Pak was prescribed and she was continued off work. She stated she had no improvement with her right thumb with the Medrol Dose Pak and no improvement with the surgery to her right shoulder. She stated she returned to D [REDACTED] and Neurontin was prescribed, which kept the pain down in her right thumb, right index finger, right long finger, and right forearm. She stated she had been having these symptoms since July 20, 2004, after she received a nerve block in her neck. She stated L [REDACTED] recommended physical therapy. She stated on August 12, 2004, she began physical therapy to her right shoulder at Metro Hand Rehabilitation three (3) times a week to the present, consisting of heat and ice daily, ultrasound, different exercises, and pulling exercises, with improvement. She stated she is able to move her right arm further. She states she has no relief of the pain in the fingers of her right hand or her right forearm. She stated the Neurontin is helping with the pain. She stated on October 14, 2004, she was released to return to work by J [REDACTED] on light duty with no use of her right upper extremity. She stated she did not return to work because her employer would not allow her to return to work because they needed a release and she then took family medical leave. She stated her last appointment with [REDACTED] was October 18, 2004, and she was continued in physical therapy. She stated she was told her right shoulder was frozen by [REDACTED] and he recommended manipulation under anesthesia but this has not been scheduled. She stated she was off work because [REDACTED] will not allow her to return to work on light duty. She stated her next appointment with I [REDACTED] was in six (6) weeks. She stated she was evaluated by [REDACTED] on October 5, 2004, at the suggestion of her attorney. She stated she had seen no other physicians for treatment as a result of this injury. She denied re-injuries to her right shoulder. She denied medical treatment to her neck or back.

She stated she cannot raise her right arm above her head due to pain in her right shoulder. She stated she had pain in her right shoulder on lifting ten (10) to fifteen (15) pounds, twisting and turning her right arm, and on pushing and pulling. She stated she had numbness and tingling in her right forearm. She stated she had "popping and locking" in her right shoulder. She stated she had occasional "sudden pain" in her right shoulder. She stated she had pain in her right shoulder which radiates into her right arm. She denied radiation of pain from her right shoulder into her neck. She stated her right hand swells occasionally. She stated she had "stabbing pain" in her right palm. She stated she had numbness and tingling and pain in her right index and long fingers and right thumb. She stated she had "popping" in the knuckle of her right long finger and occasional "popping" in her right wrist and right elbow. She stated she had pain in the right side of her neck.

She denied complaints to her upper back.

On today's examination, [REDACTED] states since last being examined in this office she continued to follow up with J [REDACTED]. She states in November of 2004, at the North Surgery Center [REDACTED] performed manipulation to the right shoulder under anesthesia. She states she continued to follow up with [REDACTED] and medications were prescribed. She states she does not recall what if any treatment was received. She states in January of 2005, [REDACTED] performed an EMG of the right upper extremity. She states she was seeing [REDACTED] for pain management. She states on March 7, 2005, she followed up with [REDACTED] and an arthroscopy to the right shoulder was recommended. She states on March 24, 2005, at the North Surgery Center I [REDACTED] performed an arthroscopy to the right shoulder as an outpatient. She states she continued following up with [REDACTED] and she was told he did not want her back into physical therapy, but he continued to prescribe medications, she was given instructions on a home exercise program, and she was told she could return to work on light duty. She denies returning to work on light duty due to pain in her right shoulder. She states she continued to follow up with [REDACTED] who recommended she undergo physical therapy at Metro Hand Rehabilitation two (2) to three (3) times a week for approximately one (1) month with therapy consisting of hot and cold packs and ultrasound with minimal relief until June of 2005. She states in June of 2005, physical therapy was discontinued due to aggravation of the symptoms in her right shoulder. She states she continued following up with [REDACTED] for examinations of her right shoulder.

She states on November 3, 2005, she followed up with [REDACTED] and an MRI of the cervical spine was recommended. She denies the MRI being performed. She states on November 11, 2005, I [REDACTED] performed an EMG of her right upper extremity. She states, on a date she cannot recall, [REDACTED] recommended ganglion blocks to the right shoulder. She states in January of 2006, she received two (2) ganglion blocks. She states she continued to follow up with [REDACTED] and he recommended physical therapy, a bone scan, and medications were prescribed. She denies attending physical therapy. She states, at Edmond Medical Center she had a bone scan performed. She states she followed up with [REDACTED] after the bone scan but she does not recall the results. She states she continued following up with I [REDACTED] for pain management. She states on May 1, 2006, she followed up with [REDACTED] and she was continued on medications, she was referred for an orthopedic hand evaluation, and an MRI of the right shoulder was recommended. She states on May 19,

2006, at TPG Open MRI an MRI of the right shoulder was performed. She states in July of 2006, she was released by _____ and she was released with restrictions. She denies medical treatment from July 7, 2006 through October 23, 2006 due to taking care of her ailing mother. She states on October 23, 2006, she was examined by _____ per Court order, and pain management was recommended.

She states on January 22, 2007, she was examined by L. _____, per Court order, and an MRI of the right shoulder was recommended, she was given instructions on a home exercise program, and medications were prescribed. She states on January 30, 2007, at Medical Plaza Imaging an MRI was performed of her right shoulder. She states she continued following up with _____ and he adjusted her medications. She denies an MRI being reviewed with her. She states on July 9, 2007, she followed up with _____ and her medications were adjusted, continued her in her home exercise program, and she was told she could return to work with restrictions. She states on September 13, 2007, she was examined by _____ for an evaluation, on referral from her attorney. She states, to her knowledge, she has seen no other physicians for treatment as a result of this injury.

She states she has pain in the neck with turning her head to the right and the left. She states she has pain in the neck with rotating her head backwards. She denies pain in the neck with moving her head forwards. She states she has headaches one (1) to two (2) times a week depending on her activity level. She states the headaches begin in her neck and radiate through the entire head. She states Excedrin migraine helps relieve her headaches. She states she has pain which radiates into her right extremity. She states she has numbness and tingling in the right upper extremity. She states she has locking, clicking, and popping in her neck. She denies other complaints to her neck.

She states she has pain in the right shoulder with raising her arm above her head. She states she has pain in the right shoulder with lifting a can of vegetables. She states she has pain in the right shoulder with turning or twisting at the elbow. She states she has pain in the right shoulder with pushing and pulling. She states she has numbness and tingling in the right shoulder. She states she has popping, clicking, and locking of the right shoulder. She denies other complaints to the right shoulder.

She denies working for an employer since her injury. She denies graduating high school. She states the highest grade she completed was eleventh grade. She states she did not complete her GED. She denies college, trade school, vo-tech, or military training.

She states she worked for _____ from May of 2000 until May of 2004 as a _____. She states she mixed icing, iced cakes, decorated them, working customer service, wash dishes, took cake orders, and put away stock. She states the most she had to lift was fifty (50) pounds. She states prior to that, she worked at the _____ from February of 1999 until November of 2001. She states her jobs did overlap. She states she had two (2) jobs at one (1) point. She states she worked there as an _____ where she did computer data entry and typing. She states there was no heavy lifting involved. She states prior to that, she worked at _____ from May of 1996 until February of 1999 where she worked as a _____ icing cakes, decorating them, and she worked in customer service washing dishes, took cake orders, put away stock, and the most she lifted was fifty

(50) pounds. She states prior to that, she worked at ██████████ from 1995 to 1996 where she worked as a ██████████ or with the same job description as ██████████. She states prior to that, she worked for ██████████ from February of 1993 until May of 1995 as a ██████████ with the same job descriptions as ██████████.

She denies any injuries, major illnesses, or diseases that have caused her to have any permanent disabilities or impairment that were caused by injuries or diseases not related to any job she has ever had. She states she is presently under the care of ██████████ for pain management. She states she visits him every three (3) months refills on her pain medication and for medication adjustments. She states she is taking Lyrica 150 mg two (2) times daily and the side effects are she feels dizzy and fuzzy. She states she takes Tizanidine 4 mg three (3) times daily and the side effects are dizziness and fuzziness, Nabumetone seventy-five (75) mg two (2) times daily and side effects are dizziness and fuzziness, and Lortab 20 mg every eight (8) hours and the side effects are dizziness and fuzziness.

She denies any disabilities to her arms, hands, legs, or feet that is constant and demonstrates a pronounced physical defect. She states she can drive a car for approximately thirty (30) minutes and she can sit for approximately one (1) hour, stand for about fifteen (15) minutes, and walk about fifteen (15) minutes. She states she can lift anywhere from five (5) to ten (10) pounds with her left hand. She states she does not mow the lawn and her brother mows it for her. She denies being able to take care of a small flower or vegetable garden. She states the shaky motion and roto-tilling and the upkeep of it cause pain in her right shoulder. She states she could babysit or take care of a preschool child. She states she could not fish or hunt. She states she has tried fishing and she could not reel a fish in due to pain in her right shoulder. She states she cannot shoot a gun due to pain in her right shoulder. She denies being able to participate in any athletic event. She states the motion jars her shoulder causing pain. She states she can vacuum if she is using her left hand. She states she could perform any kind of hobbies such as collecting pig figurines. She states she has not been involved in any accident or any illness requiring some type of medical treatment or attention since the date of her last injury. She states she cannot work because she has to do everything with her left hand. She states she cannot write a few lines with her right hand. She states she eats with her left hand and she is able to wash her hair. She states she tilts her head forward and washes it with her left hand. She states she does not fix her hair and she wears no makeup. She states she is able to pull her pants up by herself with both hands. She states she cleans herself with her left hand. She states she is living with her mother and brother on one (1) acre of land in Edmond. She states they have some livestock and her mother cares for the animals. She states she does her laundry using both her right and left hand. She states she can load and unload a dishwasher. She states she can cook primarily with her left hand. She states she can make her own bed. She states she can drive if she uses her left hand only to drive and shift into gear.

She states an average day for her consists of getting up around 7:00 or 8:00 a.m. She states she does not usually eat for breakfast. She states she immediately gets up to go to the bathroom. She states afterwards she goes to the kitchen for either a glass of milk, pop, or coffee. She states she then goes to the couch, turns on the television, and adjusts to watch it. She states she smokes approximately one (1) pack of cigarettes per day and she goes outside

to smoke each time. She states she sits on her porch. She states she usually eats crackers for lunch and then goes back to watch television unless she has a doctor's appointment. She states she also do crossword searches. She states either her mom or her brother make dinner. She states, if she stays with a friend they go out to eat and then straight back home. She states she goes to bed around 10:30 p.m., and she averages approximately four (4) hours of sleep.

She denies prior injuries or medical treatment to her right shoulder.

PAST MEDICAL HISTORY:

This person states she has an eleventh grade education. She denies completion of a GED. She denies college, trade school, or vocational training. She denies military service. She denies hobbies. She is divorced with one (1) child. She denies the use of alcohol. She smokes one (1) package of cigarettes per day. She denies the use of recreational drugs. She denies drug allergies. Current medication is Lyrica, Tizanidine, Nabumetone, Lortab, and Excedrin Migraine. Past occupations include cake decorator and accounting. She is presently unemployed. She has had a fracture of her left clavicle. She has had surgery to her right shoulder and a D & C. She has been hospitalized for one (1) childbirth. She denies motor vehicle accidents with injury. She states she had an on-the-job injury to her left index finger in the 1980's, while working for ██████████. She denies receiving an award of permanent disability for this injury. She denies other on-the-job injuries or other claims pending.

PHYSICAL EXAMINATION:

Physical examination reveals a forty-three (43) year old white female, 5'5 1/2" in height, weighing one hundred forty-three (143) pounds. Temperature is 98.1 degrees, pulse is 64, respirations are 16, and blood pressure is 120/80.

Musculoskeletal examination reveals no paravertebral muscle spasms or dysmetria of the cervicothoracic spine.

Range of motion of the cervicothoracic spine was performed with a minimum of three (3) measurements which were within the permitted variability. Of these, the maximum range of motion was used to calculate the percentage of impairment, if any.

Examination of the cervicothoracic spine reveals flexion of fifty (50) degrees and extension is sixty (60) degrees. Right and left side bending is forty-five (45) degrees. Right and left rotations are eighty (80) degrees.

Examination of the right shoulder reveals forward flexion of one hundred fifty (150) degrees and backward extension of fifty (50) degrees. Abduction is one hundred fifty (150) degrees and adduction is forty (40) degrees. Internal rotation is seventy (70) degrees and external rotation is sixty (60) degrees. There is no crepitation noted.

Examination of the right elbow reveals flexion on one hundred forty (140) degrees and extension of zero (0). Pronation is eighty (80) degrees and supination is seventy (70) degrees.

Examination of the right wrist reveals extension of sixty (60) degrees and palmar flexion of sixty (60) degrees. Radial deviation is twenty (20) degrees and ulnar deviation is thirty (30) degrees. This person is noted to have a negative Tinel's and Phalen's signs.

Neurological examination reveals deep tendon reflexes to be 2/4 bilaterally of the biceps and triceps. Cranial nerves II-XII are grossly intact. Hand grip is twenty (20) pounds on the right and sixty (60) pounds on the left. Sensory pinpoint sensation is intact in the upper extremities with a decreased sensation on the right side on the right arm. She states she is right hand dominant.

Measurements of the biceps are twenty-six (26) centimeters on the right and twenty-five (25) centimeters on the left. The forearms measure twenty-two (22) centimeters on the right and twenty-one point five (21.5) centimeters on the left.

There are arthroscopic scars noted about the right shoulder, and a five (5) centimeter scar on the lateral aspect of the right shoulder.

X-rays were obtained of the cervical spine. AP, lateral, and both oblique views reveal no radiographic abnormality.

X-rays were obtained of the right elbow. AP and lateral views reveal no radiographic abnormality.

X-rays were obtained of the right shoulder and are compared with previous films of October 25, 2004. AP views, in internal and external rotation, revealed there were two (2) pins in place through the superior lateral aspect of the humeral head consistent with a previous rotator cuff tear. There was no other radiographic abnormality. X-rays obtained on today's examination reveal interval removal of one (1) of the pins previously noted in the humeral head. There is no other significant interval change. There is no other radiographic abnormality noted.

I have reviewed the following information on examination of October 25, 2004:

A history and physical dated May 11, 2004, signed by F _____

a radiology report dated May 11, 2004, signed by I. _____

office notes dated May 11, 2004, May 14, 2004, from I. _____ office,

a laboratory report dated May 14, 2004,

a medical report dated May 27, 2004, signed by C _____

office notes dated May 26, 2004, from [REDACTED]

a patient information form dated June 1, 2004,

a patient questionnaire dated June 1, 2004,

a medical report dated June 1, 2004, signed by [REDACTED]

a return to work note dated June 1, 2004, signed by [REDACTED]

an MRI from [REDACTED] dated June 8, 2004, signed by [REDACTED]

office notes dated June 14, 2004, signed by [REDACTED]

a return to work note dated June 14, 2004, from [REDACTED] office,

a return to work note dated June 25, 2004, from [REDACTED] s office,

an operative report from [REDACTED] dated July 20, 2004,

office notes dated July 22, 2004, signed by [REDACTED]

office notes dated July 28, 2004, signed by [REDACTED]

office notes dated August 10, 2004, signed by [REDACTED]

a note from [REDACTED] dated August 12, 2004,

progress notes dated August 12, 2004, signed by [REDACTED]

progress notes from August 12, 2004 through September 10, 2004, from [REDACTED]

a medical report dated October 5, 2004, signed by [REDACTED]

a Form 9 dated October 12, 2004.

DISCUSSION:

[REDACTED] was observed leaving the office today unlocking her truck door and opening it with her right arm. She was also observed extending her right arm to place a bag into the right front passenger seat. She was observed utilizing both of her arms to steer the wheel of her vehicle.

OPINION:

In my opinion, ██████████ has sustained sixteen (16) percent permanent partial impairment to the body as a whole for injuries to the to the right shoulder as a result of her above stated accident and resulting surgery.

In my opinion, ██████████ has sustained no permanent partial impairment to the cervicothoracic spine, right elbow, or right hand as a result of the above stated accident.

In my opinion, ██████████ has sustained no consequential injury to the cervicothoracic spine therefore no permanent partial impairment to the cervicothoracic spine as a result of the above stated accident. Furthermore, it is my opinion, she has sustained no permanent partial impairment to the right arm or right hand as a result of the above stated accident.

In my opinion, ██████████ period of temporary total disability has long since ended, and she may return to employment. She is in no further need of medical care or continuing medical maintenance.

In my opinion, based on age, education, training, and work experience, ██████████ is not permanently and totally disabled or in need of vocational rehabilitation.

I declare under the penalty of perjury that I have examined this report and all statements contained herein, and to the best of my knowledge and belief, they are true, correct and complete.

Very truly yours,



CBP:bg
10240707.doc

The above computations are based upon and are in substantial accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment* with the exception of scheduled members and impairment not covered by the Guides. The Fifth Edition is utilized for injuries occurring after June 28, 2001. The Fourth Edition is utilized for injuries occurring after November 1, 1993. The third Edition, Revised is utilized for injuries occurring from January 1, 1989 to October 31, 1993. The Second Edition is utilized for injuries occurring from November 1, 1984 to December 1, 1988. The First Edition is utilized for injuries occurring July 1, 1978 to October 31, 1984.

Transcription

Patient:	[REDACTED]	Service Date:	9/22/2005
Soc. Sec. #:	[REDACTED]	Injury Date:	9/22/2005
Date of Birth:	[REDACTED] Age: [REDACTED]	Employer:	[REDACTED]
Service Location:	CMC - OKC-South	Dictated By:	[REDACTED]
Service ID #:	[REDACTED]	Diagnosis:	840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

CHIEF COMPLAINT:

Patient is a [REDACTED] employee of [REDACTED] who complains about his shoulder which was injured on 09/22/2005 9:45:00 AM.

PATIENT STATEMENT:

Patient states : "Slipped coming down hand rail injuring right shoulder, right knee and neck."

Vital Signs: BP: 124/80. P: 98. R: 14. T: 98.2 degrees F orally.

Allergies: No known allergies..

Current Medications: None

Immunizations: Last tetanus vaccination was in June 2005. Time:2:51 PM by: M M.

HISTORY OF PRESENT ILLNESS:

Patient was in his usual state of health until this injury. Injury occurred about 5 hours ago. Injury occurred when he fell as above. Previous treatment this injury: None. Previous injury this extremity: Two surgeries right shoulder and arthroscopy right knee. He denies previous neck injury. Remaining orthopedic history: Arthroscopy left shoulder and left knee.

SOCIAL HISTORY: Smokes 30 cigarettes/day. Has been a smoker for 25 years.

PAST MEDICAL HISTORY:

Surgical History: See History of Present Illness above.. Past medical, surgical, social and family histories, otherwise noncontributory.

ROS:

The patient specifically denies a history of diabetes, ulcers, liver disease, renal failure, G6PD deficiency or glaucoma. There is no exercise induced chest pain or dyspnea. Afebrile at home. Complete and detailed ROS otherwise non-contributory.

PE: APPEARANCE: Well developed, well nourished, well hydrated. In no acute distress.

PSYCH: Alert and oriented times three. Cooperative. Appropriate dress and manner.

VITAL SIGNS: Recorded in Nurses Notes and reviewed by me.

CHEST: Good air movement. Breath sounds clear in all fields.

CARDIAC: Regular rate and rhythm without murmur, rub, click or gallop.

PERIPHERAL VASCULAR: Pulses distal to injury intact. No cyanosis, clubbing or edema.

NEUROLOGIC: Motor and sensory function distal to injury grossly intact.

SKIN: See musculoskeletal exam. Remainder is unremarkable.

MUSCULOSKELETAL:

Cervical: No swelling, discoloration or deformity. Full ROM of neck. No areas of tenderness or spasm. Trachea midline. No adenopathy, thyromegaly or meningeal

Dictated But Not Read

Dictated On: 9/23/2005 8:22 AM

Dictated By: [REDACTED] PA-C



Transcription

Patient: [REDACTED]	Service Date: 9/22/2005
Soc. Sec. #: [REDACTED]	Injury Date: 9/22/2005
Date of Birth: [REDACTED] Age: [REDACTED]	Employer: [REDACTED]
Service Location: CMC - OKC-South	Dictated By: [REDACTED] PA-C
Service ID #: [REDACTED]	Diagnosis: 840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

signs.

Thoracic: No swelling, discoloration or deformity. Full range of motion. No tenderness or spasm.

Right Shoulder: Mature scars. No swelling, discoloration or deformity. Decreased active Range of Motion: Abduction: 120 degrees without pain. Flexion: 120 degrees without pain. Impingement tests: Positive. Stability tests: Negative. Rotator Cuff tests: Negative. Bicipital strum, Speeds and Yergasons: Negative

Right Knee: Mature scars. Normal gait. No swelling, discoloration or deformity. Full range of motion of hip and knee. Moderate crepitance. Tenderness at the medial joint line. Ballotment negative. Lachmans negative. McMurrays test negative. Knee is stable to varus and valgus stress.

X-RAY / LAB REPORT:

C-spine X-Ray:
 C-spine x-ray: Spurring of anterior end plates at multiple levels. Interpreted in the office.

Shoulder X-Ray: Interpreted in the clinic by me. Retained orthopedic hardware consistent with surgical history.

Right knee x-ray: Interpreted in the office. Patellar spurring. No acute boney abnormality.

ASSESSMENT:

1. Shoulder pain. 719.41.
2. Knee strain. 844.9.
3. Cervical strain. 847.0.

PLAN:

Education: The findings, treatment and natural course of the diagnosis were discussed. Patient questions were answered. Satisfactory understanding was noted.

MEDICATIONS:

Dispensed medication as follows:
 Etodolac 400mg po BID, Cyclobenzaprine 10mg po TID, ultram 50mg po Q4-6h prn pain and analgesic muscle rub. Expected benefits and potential side effects of the medication were discussed. The patient was advised to take the medication as prescribed until it is completed.

INJECTIBLES:

- Patient declined ketorolac injection.

DURABLE GOODS:

Dictated But Not Read
 Dictated On: 9/23/2005 8:22 AM

Dictated By: [REDACTED] PA-C

Transcription

Patient: [REDACTED]	Service Date: 9/22/2005
Soc. Sec. #: [REDACTED]	Injury Date: 9/22/2005
Date of Birth: [REDACTED] Age: [REDACTED]	Employer: [REDACTED]
Service Location: CMC - OKC-South	Dictated By: [REDACTED] PA-C
Service ID #: [REDACTED]	Diagnosis: 840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

Dispensed as follows:
ice/cold pack

PHYSICAL THERAPY:

Schedule for therapy daily until follow up evaluation.

ACTIVITY STATUS:

- Modified activity
- No climbing stairs or ladders
- No crawling
- No kneeling or squatting
- No lifting over 25 pounds
- Unable to drive company vehicle.

The patients company was contacted today, [REDACTED]

RETURN FOR EVALUATION: Monday 9/26/2005 Advised to return to clinic sooner as needed.

Causation: It is my opinion that the above injury is more likely than not directly related to work activities. The employer has been so advised.

OSHA 300 log recordable: YES

I declare under penalty of perjury that I have examined this report and all statements contained herein, and to the best of my knowledge, I believe they are true, correct and complete.

Dictated But Not Read
Dictated On: 9/23/2005 8:22 AM

Dictated By: [REDACTED] PA-C

Transcription

Patient: [REDACTED]	Service Date: 10/6/2005
Soc. Sec. #: [REDACTED]	Injury Date: 9/22/2005
Date of Birth: [REDACTED] Age: [REDACTED]	Employer: [REDACTED]
Service Location: CMC - OKC-South	Dictated By: [REDACTED], DO
Service ID #: [REDACTED]	Diagnosis: 840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

CHIEF COMPLAINT:

Patient is a [REDACTED] employee of [REDACTED] who complains about his shoulder which was injured on 9/22/2005 9:45:00 AM.

PATIENT STATEMENT:

Patient states : "Slipped coming down hand rail injuring right shoulder, right knee and neck."

Vital Signs: BP: 144/86. P: 100. R: 16. T: 98.8 degrees F orally.
The vitals were taken at: 11:37 AM by: C M.

Patient returns for a recheck for the injury stated above.

HISTORY OF PRESENT ILLNESS:

Patient has been working within the duty restrictions. He feels the pattern of symptoms is about the same.. The patient has had the MRI done.

PE:

MUSCULOSKELETAL:

Right Shoulder:

- Shoulder demonstrates no abnormalities on appearance.
- Decreased ROM of shoulder noted to abduction, flexion, crossing to opposite shoulder with internal rotation with pain to both passive and active ROM
- Testing of the shoulder reveals positive impingement
- palpation of the shoulder is positive for tenderness at deltoid area and posterior area
- Normal sensory function noted.

X-RAY / LAB REPORT:

MRI:
MRI: See report.

ASSESSMENT:

1. Shoulder strain. 840.9.

Dictated But Not Read
Dictated On: 10/7/2005 12:47 PM

Dictated By: [REDACTED], DO



Transcription

Patient: [REDACTED]	Service Date: 10/6/2005
Soc. Sec. #: [REDACTED]	Injury Date: 9/22/2005
Date of Birth: [REDACTED] Age: [REDACTED]	Employer: [REDACTED]
Service Location: CMC - OKC-South	Dictated By: [REDACTED], DO
Service ID #: [REDACTED]	Diagnosis: 840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

2. Shoulder tenosynovitis. 726.10.

PLAN:

MEDICATIONS:

Dispensed medication as follows:
And Etodolac 400 1 tablet PO tid with food
Home Exercise program as instructed.

ACTIVITY STATUS:

- Modified activity
- No lifting over 15 lbs.
 - No pushing/pulling over 15 lbs. of force.
 - No reaching above shoulders.
 - No squatting.
 - No kneeling.
 - Unable to drive company vehicle.

RETURN FOR EVALUATION: Friday 10/14/2005

Dictated But Not Read
Dictated On: 10/7/2005 12:47 PM

Dictated By: [REDACTED]



Transcription

Patient: [Redacted]
Soc. Sec. #: [Redacted]
Date of Birth: [Redacted] Age: [Redacted]
Service Location: CMC - OKC-South
Service ID #: [Redacted]

Service Date: 10/14/2005
Injury Date: 9/22/2005
Employer: [Redacted]
Dictated By: [Redacted] r, DO
Diagnosis: 840.9 Sprain Of Unspecified Site Of Shoulder

Note:

CHIEF COMPLAINT:

Patient is a [Redacted] employee of [Redacted] who complains about his shoulder which was injured on 09/22/2005 9:45:00 AM.

PATIENT STATEMENT:

Patient states "Slipped coming down hand rail injuring right shoulder, right knee and neck."

Vital Signs: BP: 124/64. P: 60. R: 10. T: 98.2 degrees F orally.

Time: 9:12 AM by: E S.

Patient returns for a recheck for the injury stated above.

HISTORY OF PRESENT ILLNESS:

Patient has been working within the duty restrictions. He states that his right knee is fine, but his right shoulder is still hurting.

PE:

MUSCULOSKELETAL:

Right Shoulder:

- Shoulder demonstrates no abnormalities on appearance.
- Decreased ROM of shoulder noted to abduction, flexion, crossing to opposite shoulder with internal rotation with pain to both passive and active ROM
- Testing of the shoulder reveals positive impingement
- palpation of the shoulder is positive for tenderness at deltoid area and posterior area
- Normal sensory function noted.

ASSESSMENT:

1. Shoulder strain. 840.9.
2. Shoulder tenosynovitis. 726.10.

PLAN:

MEDICATIONS:

Patient instructed to continue their previous medications as prescribed.
Home Exercise program as instructed.

Dictated But Not Read
Dictated On: 10/17/2005 2:18 PM

Dictated By: DO



Transcription

Patient:	[REDACTED]	Service Date:	10/14/2005
Soc. Sec. #:	[REDACTED]	Injury Date:	9/22/2005
Date of Birth:	[REDACTED] Age: [REDACTED]	Employer:	
Service Location:	CMC - OKC-South	Dictated By:	DO
Service ID #:	[REDACTED]	Diagnosis:	840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

ACTIVITY STATUS: MODIFIED ACTIVITY
 No lifting, pushing, or pulling over 15lbs.
 No reaching above shoulders.

PATIENT REFERRED TO: [REDACTED], MD as soon as possible.
 The patient was instructed to return to the clinic as needed.

Dictated But Not Read
Dictated On: 10/17/2005 2:18 PM

Dictated By: [REDACTED]

[REDACTED]
[REDACTED] M.D., [REDACTED] M.D., [REDACTED] M.D.,
[REDACTED] M.D., [REDACTED] M.D., [REDACTED] II, M.D.,
[REDACTED]

January 24, 2006

Ms. [REDACTED]

[REDACTED]
[REDACTED] FF101

PATIENT: [REDACTED]
CLAIM: [REDACTED]
EVALUATION: Progress
SSN: [REDACTED]
EMPLOYER: [REDACTED]
DOI: 09/22/05
DOE: 01/24/06

Dear Ms. [REDACTED]

This is a progress report on [REDACTED] who was reevaluated in my office on January 24, 2006.

CHIEF COMPLAINT: Neck pain, right-shoulder pain, and right-arm pain.

BRIEF HISTORY: This is a [REDACTED] who was injured while actively employed and on the job on September 22, 2005. After an extensive evaluation, the patient was found to have symptomatic cervical spondylosis at C6-7. After failure to respond to aggressive medical management, the patient underwent an anterior cervical microdiscectomy and fusion with instrumentation at C6-7 on December 30, 2005. He has done well. The numbness in his hands has totally abated. His neck and right-arm radicular pain have abated. The patient still has headaches but, in general, is very pleased with the results of surgery.

PHYSICAL EXAMINATION: There is no evidence of an active radiculopathy or myelopathy.

RECOMMENDATIONS/TREATMENT PLAN: The patient is recovering from his recent cervical disc fusion with instrumentation. He is also scheduled to undergo right-

PATIENT: [REDACTED]

CLAIM: [REDACTED]

January 24, 2006

Page 2

shoulder surgery by Dr. [REDACTED] in the near future. I feel that he will be able to undergo shoulder surgery in approximately one month.

WORK STATUS/RESTRICTIONS: The patient is temporarily totally disabled. He tells me that there is no light-duty work available for him on his job and that he has to go back to work with "no restrictions."

ANTICIPATED MMI: One to two months.

"I declare under penalty of perjury that I have examined all statements contained herein, and to the best of my knowledge and belief they are true, correct, and complete."

Yours most sincerely,

[REDACTED], M.D.

SP:em

Enclosure: Form 5

c:

[REDACTED], R.N.

[REDACTED], M.D.

Dictated: 01/24/06

Transcribed: 01/25/06

060702050004254

[Redacted]
[Redacted], M.D., [Redacted], M.D., [Redacted], M.D., [Redacted], M.D.,
[Redacted], M.D., [Redacted], M.D., [Redacted], M.D.,
[Redacted] (800) 742-3 [Redacted] • Fax (405) 749-
Email: [Redacted] Website: [Redacted]

February 28, 2006

[Redacted]
[Redacted]
[Redacted]

PATIENT: [Redacted]
CLAIM: [Redacted]
EVALUATION: Discharge
SSN: [Redacted]
EMPLOYER: [Redacted]
DOI: 09/22/05
DOE: 02/28/06

Dear Ms. Felcyn:

This is a discharge summary on [Redacted]. The patient was reevaluated in my office in neurosurgical consultation on February 28, 2006.

CHIEF COMPLAINT: Neck pain, right-shoulder pain, and right-arm pain.

BRIEF HISTORY: This a [Redacted] who was injured while actively employed and on the job on September 22, 2005. After an extensive neurosurgical evaluation and failure to respond to conservative therapy, the patient underwent an anterior cervical microdiscectomy and fusion with instrumentation at C6-7 for symptomatic cervical spondylosis at C6-7, which I feel was made symptomatic by his on-the-job injury. The patient has had excellent results from his surgery and, at present, has no symptoms of an active radiculopathy or myelopathy.

REVIEW OF SYSTEMS: Not contributory.

PHYSICAL EXAMINATION: The patient has good range of motion of his head and neck in flexion, extension, and lateral bending. He has excellent strength and sensation in his arms and legs. He has normal reflexes and no long-tract signs.

X-RAYS/DIAGNOSTICS: Postoperative cervical spine x-rays show good stability at the C6-7 level and excellent instrumentation at this level, as well.

PATIENT: [REDACTED]
CLAIM: [REDACTED]
February 28, 2006
Page 2

IMPRESSION: Status post anterior cervical microdiscectomy and fusion with instrumentation at C6-7 for cervical spondylosis at this level, made symptomatic, by history, by an on-the-job injury of September 22, 2005.

PLAN: The patient should continue his home exercise program and is to stay active.

WORK STATUS/RESTRICTIONS: The patient can return to gainful employment at any time. He will be on a 25-pound permanent weight restriction in lifting, bending, pulling, tugging, etc. The patient tells me that he has decided not to return to work as a [REDACTED] in the future.

MMI: Has been attained as of February 28, 2006.

This is a final disposition.

"I declare under penalty of perjury that I have examined all statements contained herein, and to the best of my knowledge and belief they are true, correct, and complete."

Yours most sincerely,

[REDACTED] M.D.
SP:em

Enclosure: Form 5

c: [REDACTED] S

P. O. Box [REDACTED]

[REDACTED], M.D.
[REDACTED]

Dictated: 02/28/06
Transcribed: 03/01/06

[REDACTED] 005054

[REDACTED], M.D.

March 27, 2006

[REDACTED]

PATIENT: [REDACTED]
CLAIM: [REDACTED]
SSN: [REDACTED]
EVALUATION: Progress Report
EMPLOYER: [REDACTED]
DOI: 9/22/05

This is a follow-up orthopedic report on the above patient.

[REDACTED] is following up for right shoulder arthroscopy and debridement. He reports "I feel great". I can tell a big difference. He has no pain or popping reported. His wounds are benign. He is only six days following the surgery. Physical therapy for a couple of weeks recommended. Anti-inflammatories. I will recheck him in a month.

WORK STATUS: Restrictions for his shoulder for now are ten pounds lifting and ten pounds pushing and pulling. No work overhead or above chest. No crawling or climbing.

ANTICIPATED MMI: Possibly four to six weeks.

"I declare, under penalty of perjury, that I have examined the statements contained herein, and to the best of my knowledge and belief, they are true, correct and complete."

[REDACTED], M.D.

ntb

cc: [REDACTED]

0005054

[REDACTED], M. D.

6
March 8, 2006

[REDACTED]

PATIENT: [REDACTED]
CLAIM: [REDACTED]
SSN: [REDACTED]
EVALUATION: Progress Report
EMPLOYER:
DOI: 9/22/05

This is a follow-up orthopedic report on the above patient.

[REDACTED] is here to discuss surgery. The patient has continued difficulty in his right shoulder. He had a surgery on his neck and that has given him significant improvement of his neck problems and also some improvement on his shoulder. He continues, however, to struggle with shoulder range of motion, strength crepitus and pain. We talked about there being some degenerative changes on his shoulder and we will not be able to alleviate all of his symptoms. The idea of any further surgery for the shoulder would be to stage the shoulder, do debridement, lavage and hopefully improve his symptoms and hopefully buy him a few more years of improved symptomatology. He very much wants to proceed with that surgery. He is left hand dominant. He thinks that he can protect the right shoulder and continue to be fairly functional, post operatively. Scheduling was initiated some time in the next few weeks for his right shoulder arthroscopy, debridement and indicated procedures.

WORK STATUS: Restrictions for his shoulder for now are ten pounds lifting and twenty pounds pushing and pulling. No work overhead.

ANTICIPATED MMI: Approximately three to four months post operatively.

"I declare, under penalty of perjury, that I have examined the statements contained herein, and to the best of my knowledge and belief, they are true, correct and complete."

[REDACTED]

_____, M. D.
/mtb

0005054

May 22, 2006

[REDACTED]

PATIENT: [REDACTED]
CLAIM: [REDACTED]
SSN: [REDACTED]
EVALUATION: Progress Report
EMPLOYER:
DOI: 9/22/05

This is a follow-up orthopedic report on the above patient.

[REDACTED] is following up for his right shoulder. Range of motion is steadily improved. He is doing very well. He has one hundred and seventy degrees of forward flexion. Abduction to one hundred and ten. External rotation is forty five. Internal rotation is sixty. He is reporting no pain. Slight crepitus. The patient has reached maximum medical improvement. He is released today without restrictions in regards to his shoulder. He will take over the counter anti-inflammatories on an as needed basis.

WORK STATUS: No restrictions.

ANTICIPATED MMI: Today.

IMPAIRMENT RATING: This rating is in accordance with the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. Relative to the patient's injury and subsequent surgery and apportioned to pre-existing degenerative changes, he has a three percent impairment to the whole body based upon his shoulder.

"I declare, under penalty of perjury, that I have examined the statements contained herein, and to the best of my knowledge and belief, they are true, correct and complete."

M. D.

/ntb

cc: [REDACTED]

SOCIAL SECURITY NOTICE

From: Social Security Administration

Date: February 21, 2007

Claim Number: [REDACTED]
Claim for: DIB

[REDACTED]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

We have enclosed information about the disability rules and more details about the decision on your claim.

ABOUT THE DECISION

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

The following reports were used to decide your claim:

MD evidence received 02/06/2007
MD evidence received 02/06/2007

Additional reports were not obtainable.

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education,

Permanent Subcommittee on Investigations

EXHIBIT #7g

training, and work experience in determining how your condition affected your ability to work.

You said that you are unable to work because of neck and shoulder injuries.

The medical evidence shows the following: Although you have pain and discomfort in your neck and shoulder, you can move them well enough to do some types of work. Medical evidence does not show any other impairments which keep you from working.

We realize that your condition keeps you from doing any of your past work, but it does not keep you from doing other work which is less demanding. Based on your age, education and past work experience, you can do other work.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

In addition, you are not entitled to any other benefits based on this application. If you applied for other benefits, you will receive a separate notice when a decision is made on that claim(s).

IF YOU DISAGREE WITH THE DECISION

If you disagree with the decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case.

- You have 60 days to ask for an appeal
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a form SSA-561-U2, called "Disability Report-Appeal". You may request this form online at <http://www.socialsecurity.gov/online/ssa-561.pdf>. Contact one of our offices if you want help.
- In addition, you have to complete a "Reconsideration Disability Report" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online at <http://www.socialsecurity.gov/disability/recon>.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the appeal.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:



- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

IF YOU WANT HELP WITH YOUR APPEAL

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security Office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due benefits to pay toward the fee.

OTHER BENEFITS

Based on the application you filed, you are not entitled to any other benefits, besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again.

REQUIREMENTS FOR DISABILITY BENEFITS

DISABILITY INSURANCE BENEFITS

To be considered disabled, a person must be unable to do any substantial gainful work due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in her or his usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether s/he can work. The condition must be disabling at a time when the person meets the earnings requirement. If you were not disabled when the earnings requirement was met, we have enclosed a leaflet which explains the earnings requirement and tells how Social Security credits are earned.

DISABLED WIDOW OR WIDOWER BENEFITS

To be considered disabled, a widow, widower or surviving divorced spouse (age 50 to 60) must have a physical or mental condition severe enough to keep a person from working. The condition must have lasted or be expected to last for at least 12 months in a row.

The person's disability must start:

- * not less than 7 years after the month of death of the wife or husband, or
- * for a widow, widower, or surviving divorced spouse, formerly entitled to mother's or father's benefits not later than 7 years after the month those benefits ended, or

* for a widow, widower, or surviving divorced spouse who was previously disabled and who becomes disabled again, not later than 7 years after the prior period of disability ended.

CHILDHOOD DISABILITY BENEFITS

Childhood disability benefits may be paid to a person age 18 or older if the person has a disability which began before age 22 or within 84 months of the end of an earlier period of childhood disability. The condition, whether physical or mental, must be severe enough to keep the person from doing any substantial gainful work. We look at the person's age, education and previous training when we decide whether he or she can work. In addition, the condition must have lasted or be expected to last for at least 12 months in a row.

OTHER IMPORTANT INFORMATION

Definitions of disability are not the same in all government and private disability programs. Government agencies must follow the laws that apply to their own disability programs. A finding by a private organization or other government agency that a person is disabled does not necessarily mean that the person meets the disability requirements of the Social Security Act.

IF YOU HAVE ANY QUESTIONS

If you have any questions, you may call us toll free at 1-800-772-1213. We can answer most questions over the phone. You can also write or visit any Social Security Office. The office that serves your area is located at:

SHEPHERD MALL 2615 VILLA PROM
OKLAHOMA CITY, OK 73107

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us to serve you more quickly.

Ramona Schuenemeyer
Regional Commissioner

KLF/klf

Enclosure:
SSA Pub. No. 05-10058
Form SSA-L443-U2

DO 783

NH [REDACTED]

: UNIT: [REDACTED] :
: :
: :
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: :
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: :
: :

[REDACTED]

REQUEST FOR RECONSIDERATION

On March 22, 2007, we talked with you and completed your REQUEST FOR RECONSIDERATION for SOCIAL SECURITY BENEFITS. We stored your REQUEST FOR RECONSIDERATION information electronically in our records and attached a summary of your statements.

What You Need To Do

- o Review your REQUEST FOR RECONSIDERATION to ensure we recorded your statements correctly.
- o If you agree with all your statements, you may retain the REQUEST FOR RECONSIDERATION for your records.
- o If you disagree with any of your statements, you should contact us within 10 days after the date of this notice to let us know.

MY NAME IS [REDACTED]

MY SOCIAL SECURITY NUMBER IS [REDACTED]

I REQUEST A RECONSIDERATION. I DISAGREE WITH THE DETERMINATION MADE ON MY CLAIM FOR DISABILITY-WORKER OR CHILD BENEFITS BECAUSE I AM UNABLE TO WORK

I HAVE NO ADDITIONAL EVIDENCE TO SUBMIT.

I AM REPRESENTED BY [REDACTED] WHO IS AN ATTORNEY.

NH [REDACTED]

MY PHONE NUMBER IS [REDACTED]

DATE March 22, 2007.

FUNCTION REPORT - ADULT

How your illnesses, injuries, or conditions limit your activities

For SSA Use Only

Do not write in this box.

Related SSN _____

Number Holder _____

INFORMATION

2. SOCIAL SECURITY NUMBER

3. DATE (Month, Day, Year)

5-16-07

1.

[Redacted Name]
[Redacted Address]
[Redacted City] [Redacted State] [Redacted Zip]
22 05/08/07

4. YOUR DAYTIME TELEPHONE NUMBER (If there is no telephone number where you can be reached, please give us a daytime number where we can leave a message for you.)

[Redacted Area Code] [Redacted Phone Number]
Area Code Phone Number

Your Number Message Number None

5. a. Where do you live? (Check one.)

House Apartment Boarding House Nursing Home
 Shelter Group Home Other (What?) _____

b. With whom do you live? (Check one.)

Alone With Family With Friends
 Other (Describe relationship.) _____

SECTION B - INFORMATION ABOUT DAILY ACTIVITIES

6. Describe what you do from the time you wake up until going to bed.

Not much, A little laundry, water yard
Some light house cleaning to help my wife

7. Do you take care of anyone else such as a wife/husband, children, grandchildren, parents, friend, other? Yes No

If "YES," for whom do you care, and what do you do for them? _____

8. Do you take care of pets or other animals? Yes No

If "YES," what do you do for them? _____

9. Does anyone help you care for other people or animals? Yes No

If "YES," who helps, and what do they do to help? my Wife & Daughter help
with our two Dogs

10. What were you able to do before your illnesses, injuries, or conditions that you can't do now?

Work Jet Ski; Sold it because injuries to my neck knee
shldr keep me from most things I used to do.

11. Do the illnesses, injuries, or conditions affect your sleep? Yes No

If "YES," how? my neck has a metal plate in it & I can't
sleep more than about 4 hrs at a time without waking up
hurting.

12. PERSONAL CARE (Check here if NO PROBLEM with personal care.)

a. Explain how your illnesses, injuries, or conditions affect your ability to:

Dress NONE

Bathe NONE

Care for hair NONE

Shave NONE

Feed self NONE

Use the toilet NONE

Other? CAN'T WALK stand sit down for a long period
of Time, without pain

b. Do you need any special reminders to take care of personal needs and grooming?

Yes No

If "YES," what type of help or reminders are needed? _____

c. Do you need help or reminders taking medicine?

Yes No

If "YES," what kind of help do you need? _____

13. MEALS

a. Do you prepare your own meals?

Yes No

If "Yes," what kind of food do you prepare? (For example, sandwiches, frozen dinners, or complete meals with several courses). SANDWICHES, FROZEN DINNERS

How often do you prepare food or meals? (For example, daily, weekly, monthly.)

DAILY

How long does it take you? 30 minutes

Any changes in cooking habits since the illness, injuries, or conditions began?

NOT SO MUCH

b. If "No," explain why you cannot or do not prepare meals.

my wife does most of the cooking in our house

14. HOUSE AND YARD WORK

a. List household chores, both indoors and outdoors, that you are able to do. (For example, cleaning, laundry, household repairs, ironing, mowing, etc.)

Light Cleaning, Laundry, watering yard my wife mows yard

b. How much time does it take you, and how often do you do each of these things?

2 or 3 Times A Week

c. Do you need help or encouragement doing these things?

Yes No

If "YES," what help is needed? _____

d. If you don't do house or yard work, explain why not. Doctors said I can't Bend
Push Pull Squat Lift over 15 to 25 lbs Ever.

15. GETTING AROUND

a. How often do you go outside? get the mail
If you don't go out at all, explain why not. water the yard

b. When going out, how do you travel? (Check all that apply.)
 Walk Drive a car Ride in a car Ride a bicycle
 Use public transportation Other (Explain) _____

c. When going out, can you go out alone? Yes No
If "NO," explain why you can't go out alone. _____

d. Do you drive? Yes No
If you don't drive, explain why not. _____

16. SHOPPING

a. If you do any shopping, do you shop: (Check all that apply.)
 In stores By phone By mail By computer

b. Describe what you shop for. Presents Birthday Christmas Etc.

c. How often do you shop and how long does it take? not very long at all

17. MONEY

a. Are you able to:
Pay bills Yes No Handle a savings account Yes No
Count change Yes No Use a checkbook/money orders Yes No

Explain all "NO" answers. _____

b. Has your ability to handle money changed since the illnesses, injuries, or conditions began?

Yes No

If "YES," explain how the ability to handle money has changed. Have Not Worked Since Injury 9-22-05 - Not much money coming in

18. HOBBIES AND INTERESTS

a. What are your hobbies and interests? (For example, reading, watching TV, sewing, playing sports, etc.) TV

b. How often and how well do you do these things?

Every day

c. Describe any changes in these activities since the illnesses, injuries, or conditions began.

Watching TV is about all I can do

19. SOCIAL ACTIVITIES

a. Do you spend time with others? (In person, on the phone, on the computer, etc.)

Yes No

If "YES," describe the kinds of things you do with others.

Talking on phone to friends etc.

How often do you do these things?

Every once in a while

b. List the places you go on a regular basis. (For example, church, community center, sports events, social groups, etc.)

Church now & then

Do you need to be reminded to go places?

Yes No

How often do you go and how much do you take part?

Do you need someone to accompany you?

Yes No

c. Do you have any problems getting along with family, friends, neighbors, or others?

Yes No

If "YES," explain.

d. Describe any changes in social activities since the illnesses, injuries, or conditions began.

CAN'T GO BOATING, JET SKIING, RIDING HORSES, TAKING LONG WALKS
PLAYING SOFTBALL WITH MY DAUGHTER CAN'T DO MUCH ANYMORE

SECTION C - INFORMATION ABOUT ABILITIES

20. a. Check any of the following items that your illnesses, injuries, or conditions affect:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Lifting | <input checked="" type="checkbox"/> Walking | <input checked="" type="checkbox"/> Stair Climbing | <input type="checkbox"/> Understanding |
| <input checked="" type="checkbox"/> Squatting | <input checked="" type="checkbox"/> Sitting | <input type="checkbox"/> Seeing | <input type="checkbox"/> Following Instructions |
| <input checked="" type="checkbox"/> Bending | <input checked="" type="checkbox"/> Kneeling | <input type="checkbox"/> Memory | <input checked="" type="checkbox"/> Using Hands |
| <input checked="" type="checkbox"/> Standing | <input type="checkbox"/> Talking | <input checked="" type="checkbox"/> Completing Tasks | <input type="checkbox"/> Getting Along With Others |
| <input checked="" type="checkbox"/> Reaching | <input type="checkbox"/> Hearing | <input type="checkbox"/> Concentration | |

Please explain how your illnesses, injuries, or conditions affect each of the items you checked. (For example, you can only lift [how many pounds], or you can only walk [how far])

15 to 25 Lbs Restrictions for Life from doctor. About A Block

b. Are you: Right Handed? Left Handed?

c. How far can you walk before needing to stop and rest? About A Block

If you have to rest, how long before you can resume walking? 5 minutes

d. For how long can you pay attention? A while

e. Do you finish what you start? (For example, a conversation, chores, reading, watching a movie)

Yes No

f. How well do you follow written instructions? (For example, a recipe) good

g. How well do you follow spoken instructions? good

h. How well do you get along with authority figures? (For example, police, bosses, landlords or teachers)

Great

i. Have you ever been fired or laid off from a job because of problems getting along with other people?

Yes

No

If "YES," please explain.

If "YES," please give name of employer.

j. How well do you handle stress?

OK AS good AS most People

k. How well do you handle changes in routine?

I re Had to adapt,

l. Have you noticed any unusual behavior or fears?

Yes

No

If "YES," please explain.

I m not REAL Happy about not being able to help support my family & you people aren't helping me

21. Do you use any of the following? (Check all that apply.)

Crutches

Cane

Hearing Aid

Walker

Brace/Splint

Glasses/Contact Lenses

Wheelchair

Artificial Limb

Artificial Voice Box

Other (Explain)

Which of these were prescribed by a doctor?

Brace,

When was it prescribed?

After Injury

When do you need to use these aids?

Every 50 often

SECTION D - REMARKS

Use this section for any added information you did not show in earlier parts of this form. When you are done with this section (or if you didn't have anything to add), be sure to complete the fields at the bottom of this page.

I CAN NOT GO BACK TO WORK, IM ON PAIN MEDS, IVE GOT RESTRICTIONS FOR LIFE AND IVE NOT HAD ANY INCOME SINCE 9-22-05 BECAUSE OF THAT IM NOT REAL HAPPY ABOUT YOU ALL KEEPING ME FROM RECEIVING SSA DISABILITY.

Name of person completing this form (Please print)

[REDACTED]

Date (month, day, year)

5-16-07

Address (Number and Street)

[REDACTED]

email address (optional)

City

[REDACTED]

State

[REDACTED]

Zip Code

[REDACTED]

OKLAHOMA
D
AKC
Closed
12/26/07

[Redacted]

[Redacted]

Mailing Address:

[Redacted]



RECEIVED

NOV 16 2007

Telephone:

Facsimile:

[Redacted]

OHA OKLA. CITY, OK

Location:

Serving Oklahoma Since 1977

[Redacted]

[Redacted]

November 9, 2007

Office of Disability Adjudication & Review

[Redacted]

Oklahoma City, OK 73102

Attn:

Senior Attorney Advisor

Re:

SSN [Redacted]

Dear

[Redacted]

Enclosed please find an original document showing that [Redacted] does wish to have a hearing in reference to his Social Security Disability claim.

Please ignore the previous notification that he wished to waive his right to a personal appearance.

We will be ready for a hearing whenever the office has prepared the necessary forms and set the matter for hearing.

However, due to [Redacted] age and his medical condition, I would request that you as Senior Attorney please review the file for the possibility of an on the record favorable decision.

Please review said file and if you find that it meets the criteria, I would ask that you do so and return a favorable decision on behalf of [Redacted]

Thank you for your assistance.

Very truly yours,

[Handwritten signature]

[Redacted]

Attorney at Law

[Redacted]

Enclosure



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: DEC 26 2007

[REDACTED]

NOTICE OF DECISION - FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

See Next Page

Permanent Subcommittee on Investigations

EXHIBIT #7k

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider with your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

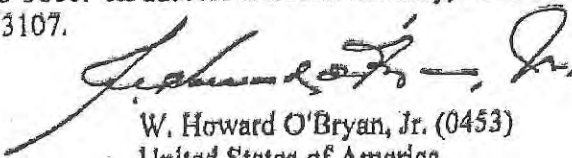
If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

[REDACTED]

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)605-3000. Its address is Social Security, 2615 Villa Prom, Shepherd Mall, Oklahoma City, OK 73107.



W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

cc:

[REDACTED]
Attorney and Counselor at Law
[REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

CLAIM FOR

[REDACTED]
(Claimant)

Period of Disability and Disability Insurance Benefits

[REDACTED]
(Wage Earner)

[REDACTED]
(Social Security Number)

I approve the fee agreement between the claimant and his representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, J/D
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc
Rm 460
1301 Young St
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.



You should include the social security number(s) shown on this order on any papers that you send us.

W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

DEC 26 2007

Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

████████████████████

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance
Benefits¹

████████████████████

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated July 19, 2007 (20 CFR 404.929 *et seq.*). The evidence of record supports a fully favorable decision; therefore no hearing² has been held (20 CFR 404.948(a)). The claimant is represented by ██████████ an attorney.

The claimant is alleging disability since September 22, 2005.

ISSUES

The issue is whether the claimant is disabled under sections 216(f) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(f) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2010. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from September 22, 2005 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled.

¹ Title II of the Social Security Act is administered by the Social Security Administration. Title II appears in the United States Code as §§401-433, subchapter II, chapter 7, Title 42. http://www.ssa.gov/OP_Home/ssact/title02/0200.htm¹¹¹

² 20 Code of Federal Regulations Ch. III (4-1-86 edition) section 404.948: Deciding a case without an oral hearing before an administrative law judge. (a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the Administrative Law Judge may issue a hearing decision without holding an oral hearing. ...²²

regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(e)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2010.
2. The claimant has not engaged in substantial gainful activity since September 22, 2005, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).
3. The claimant has the following severe impairment(s):

Other and unspecified arthropathies (7160), etc., etc.,	Disorders of back discogenic and degenerative (7240), etc., etc., etc.,
---	---

(20 CFR 404.1520(c)).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).
5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work except the record shows the claimant is functional below the sedentary level for any sustained, continual or regular activity.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and

See Next Page

other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

BRIEF HISTORY: This is 51-year-old [redacted] who was injured while actively employed and on the job on September 22, 2005. After an extensive neurosurgical evaluation and failure to respond to conservative therapy, the patient underwent an anterior cervical microdiscectomy and fusion with instrumentation at C6-7 for symptomatic cervical spondylosis at C6-7, which I feel was made symptomatic by his on-the-job injury. The patient has had excellent results from his surgery and, at present, has no symptoms of an active radiculopathy or myelopathy.

ASSESSMENT:

- 1. Shoulder strain. 840.9.
- 2. Shoulder tenosynovitis. 726.10.

Transcription

Patient:	[redacted]	Service Date:	10/14/2005
Soc. Sec. #:	[redacted]	Injury Date:	9/22/2005
Date of Birth:	[redacted] Age: 52	Employer:	[redacted]
Service Location:	[redacted]	Dictated By:	[redacted], DO
Service ID #:	[redacted]	Diagnosis:	840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

ACTIVITY STATUS: MODIFIED ACTIVITY
No lifting, pushing, or pulling over 15lbs.
No reaching above shoulders.

PATIENT REFERRED TO: " [redacted] MD as soon as possible.
The patient was instructed to return to the clinic as needed.

02-25-07 11:48 FRM-

T-225 P.035/014 F-106

Transcription

Patient:	[redacted]	Service Date:	10/6/2005
Soc. Sec. #:	[redacted]	Injury Date:	9/22/2005
Date of Birth:	[redacted] Age: 52	Employer:	[redacted]
Service Location:	[redacted]	Dictated By:	[redacted], DO
Service ID #:	[redacted]	Diagnosis:	840.9 Sprain Of Unspecified Site Of Shoulder

Notes:

- 2. Shoulder tenosynovitis. 726.10.

PLAN:

MEDICATIONS:

Dispensed medication as follows:
Add Etodolac 400 1 tablet PO tid with food
Home Exercise program as instructed.

ACTIVITY STATUS:

- Modified activity
- No lifting over 15 lbs.
- No pushing/pulling over 15 lbs. of force.
- No reaching above shoulders.
- No squatting.
- No kneeling.
- Unable to drive company vehicle.

RETURN FOR EVALUATION: Friday 10/14/2005

EXERCITIONAL LIMITATIONS

None established. (Proceed to SECTION B.)

1. Occasionally lift and/or carry (including upward pulling) (maximum) - when less than one-third of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 20 pounds
 50 pounds
 100 pounds or more

2. Frequently lift and/or carry (including upward pulling) (maximum) - when less than two-thirds of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 25 pounds
 50 pounds or more

3. Stand and/or walk (with normal breaks) for a total of -

- less than 2 hours in an 8-hour workday
 at least 2 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 medically required hand-held assistive device is necessary for ambulation

4. Sit (with normal breaks) for a total of -

- less than about 6 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 must periodically alternate sitting and standing to relieve pain or discomfort. (If checked, explain in 6.)

5. Push and/or pull (including operation of hand and/or foot controls) -

- unlimited, other than as shown for lift and/or carry
 limited in upper extremities (describe nature and degree)
 limited in lower extremities (describe nature and degree)

6. Explain how and why the evidence supports your conclusions in item 1 through 5.

Cite the specific facts upon which your conclusions are based.
 52 year old with 12 years of education alleging neck and shoulder injuries. S/P s/a microdiscectomy and fusion with instrumentation at C6-7 and arthroscopy of right shoulder. MRs 3/06 show permanent restrictions of 15# lifting, bending, pulling, tugging, etc. MER shows right shoulder decreased ROM with crepitus and no pain. ADL's indicate he is able to perform his own personal care, prepares simple meals, does laundry, drives and has sleep problems due to arm pain. PO observation shows that he walked slow and deliberate, and often rubbed his neck.

Continued on Page 3

Various physicians, treating and non-treating, have written that the claimant suffered from various medical problems and that the claimant has significant work restrictions.

See Next Page

While the finding that a person is "disabled" under the provisions of the Social Security Act is an issue reserved to the Commissioner³ (SSR 96-5p1), opinions from any medical source on issues reserved to the Commissioner must never be ignored.

The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner.

If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

The fact that the claimant's treating physician, after extensive examinations and treatment, has formed such opinion as to the claimant's ability to perform sustained work activity was precluded strongly suggests a significantly limited residual functional capacity.

Further, considering the claimant's diagnoses and multitude of prescribed medications tried, the undersigned finds that treating physician's opinion is well support and is not inconsistent with the other substantial evidence in the case record; thus, it is afforded controlling weight (20 CFR 404.1527(d)(2) and SSR 96-2p).

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment(s) could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the

³ Under 20 CFR 404.1527(e), some issues are not medical issues regarding the nature and severity of an individual's impairment(s) but are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability. The following are examples of such issues:

- Whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the listings;
- What an individual's RFC is;
- Whether an individual's RFC prevents him or her from doing past relevant work;
- How the vocational factors of age, education, and work experience apply; and
- Whether an individual is "disabled" under the Act.

The regulations provide that the final responsibility for deciding issues such as these is reserved to the Commissioner. 33

State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The demands of the claimant's past relevant work exceed the residual functional capacity.

7. The claimant was an individual closely approaching advanced age on the established disability onset date (20 CFR 404.1563).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2.

If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11).

When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decision-making unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14).

If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decision-making (SSR 85-15).

Even if the claimant had the residual functional capacity for the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "disabled" would be reached by direct application of Medical-Vocational Rule 201.14.

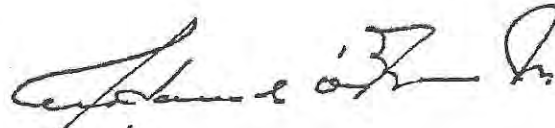
11. The claimant has been under a disability, as defined in the Social Security Act, from September 22, 2005 through the date of this decision (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on December 5, 2006, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on September 22, 2005.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 12 months.

Workers' Compensation offset may be applicable.



W. Howard O'Bryan, Jr. (0453)
United States of America
⁴Administrative Law Judge
Federal Administrative Judiciary

DEC 26 2007

Date

⁴ W. Howard O'Bryan, Jr., (0453), United States Administrative Law Judge, Social Security Administration, Office of Adjudication and Review. Who may preside: 5 USC 556(b); Powers of the presiding officer: 5 USC 556(e); Special role of the Administrative Law Judge in Social Security: *Heckler v. Campbell*, 461 U.S. 458, 471, 103 S.Ct. 1952, 1959, 1 S.S.R.S. 3, 10, CCH ¶ 14,585 (1983); *Dixon v. Heckler*, 811 F.2d 806, 510, 16 S.S.R.S. 279, 283 (10th Cir. 1987); *James v. Bowen*, 793 F.2d 702, 704-705, 14 S.S.R.S. 87, 89-90, CCH ¶ 17,071 (5th Cir. 1986); *Cannon v. Harris*, 651 F.2d 513 (7th Cir. 1981); *Cunliffe v. Weinberger*, 527 F.2d 224 (3rd Cir. 1975) (Administrative Law Judge must develop full record where claimant not represented by counsel); But see, *Kane v. Heckler*, 731 F.2d 1216, 4 S.S.R.S. 340, CCH ¶ 15,324 (5th Cir. 1984), *Doxler v. Heckler*, 754 F.2d 274 (8th Cir. 1985); *Jordan v. Heckler*, 835 F.2d 314, 20 S.S.R.S. 158, CCH ¶ 17,808 (10th Cir. 1987), (Administrative Law Judge must develop full record even if claimant represented by counsel); Social Security Ruling 71-21; Social Security Regulations 20 CFR §§ 404.944 and 416.1444, see also, 20 CFR 404.950, 404.951, 416.1450 and 416.1451; Social Security Act, §§ 305(b) and 1631(e)(1).

Board Certified Rheumatology

January 4, 2008

[REDACTED]
Fax: ([REDACTED])

[REDACTED]
Fax: ([REDACTED])

[REDACTED]
Fax: ([REDACTED])

[REDACTED]
Fax: ([REDACTED])

Re: [REDACTED]
DOB: [REDACTED]

Dear Doctors:

[REDACTED] returns. She was referred by [REDACTED], M.D. [REDACTED] is not on her insurance currently and [REDACTED] is her primary physician. She has Crohn's diagnosed April 2007. The patient is on Remicade.

Her evaluation - lab, unremarkable CBC, B12, and folate. Iron low normal at 36 (35-180). CMP - unremarkable - uric acid 2.2 (2.5-8.0). CPK of 42. SPE is unremarkable. 25-hydroxyvitamin D of 19 (20-100). Normal hemoglobin A1c of 5.2. Normal sed rate of 19. Negative CCP, ANA, rheumatoid factor, CRP, and HLA-B27.

Biomarker profile done September 14, 2007 - (just prior to Remicade) with normal TNF, IL-6, and IL-17 cytokines.

Cervical MRI is reviewed. Some cystic change in the nasopharyngeal soft tissues. C2-C3 with spurring with left neuroforamen narrowing. C3-C4 with spurring with spinal stenosis, uncovertebral spurring, and moderate bilateral neuroforamen narrowing. C4-C5 with moderate spinal stenosis and uncovertebral spurring with moderate bilateral neuroforamen narrowing. C5-C6 with mild spinal stenosis, disc bulge with uncovertebral spurring, and moderate bilateral neuroforamen narrowing. C6-C7 with disc bulge with spurring with mild spinal stenosis, uncovertebral spurring, and bilateral neuroforamen narrowing - mild. C7-T1 posterior ridging with uncovertebral spurs and mild right and minimal left neuroforamen narrowing.

Lumbar MRI is reviewed. L4-L5 with left paracentral rupture. Radiology notes this as small. I think this is a moderate disc rupture and there is dehydration at this disc. Facet arthritis and mild spinal stenosis are noted with moderate neuroforamen narrowing bilaterally. L5-S1 disc disease with facet arthritis. Sacral nerve root sleeves are noted. Left renal cyst.

[REDACTED]
01/04/2008
Page Two (2)

CAT scan lumbar spine to evaluate for a pars defect. Schmorl's nodes are noted. L4-L5 with disc bulge with spinal stenosis and neuroforamen narrowing. L5-S1 with spurring at the facets with right-sided spurring. SI joints with osteoarthritic changes with gas degeneration. Sacral nerve root sleeves incidentally noted. ASPVD is also seen.

She saw [REDACTED]. He performed three lumbar epidurals. She still is having pain.

Her Crohn's is active with cramping and diarrhea.

Regarding her Remicade, I think she is on 10 mg/kg every four weeks. I [REDACTED] sees her next week. She is on Pentasa and has had increased steroid's 40 mg of prednisone.

Regarding her joints, she is having severe neck pain that goes down in both upper extremities, especially on the left. Thoracic spine with pain in the midthoracic region. Lumbar spine bothers her. She cannot sleep more than an hour at a time. She has pain in the back down the back of her legs to the knees in the L4-L5 distribution. She also has pain in the buttock area. She cannot sit for very long.

EXAM:

She has cervical spasm bilaterally. Thoracic spine with some tenderness. Lumbar spine with tenderness bilaterally including the SI joints.

What is going on?

1. Inflammatory arthritis? This is difficult to determine. I do not think she has Rheumatoid Arthritis. A consideration is Crohn's Spondyloarthropathy/Ankylosing Spondylitis. I think she has sacroiliitis on x-ray. Her Fabere's testing of the SI joint was positive on the left. She has had lumbar epidurals. She has not had an SI injection. I talked with [REDACTED] today. He will see her and review the cause of her pain with SI injections, consider facet injections, and then he will refer her to [REDACTED] Spine Orthopedics. It is hard to know if she has an inflammatory process. She could still have sacroiliitis even with (otherwise) stabilized Spondyloarthropathy. I recommend continue Remicade. She sees [REDACTED] next week. I called his office and [REDACTED] will call me next week.
2. Cervical disc disease. The patient with multilevel disc problems, especially at C5-C6 with moderate spinal stenosis. She has nerve entrapment bilaterally. Multiple other areas with nerve entrapment.
3. Lumbar spine - the patient has L4-L5 ruptured disc. I think this is moderate. The disc is dehydrated but the disc is dehydrated. I think this is very abnormal and her pain distribution goes along with L4-L5. There is overlap with the sacroiliac joints and the L4-L5 disc. I think she will need to see Spine Orthopedics and [REDACTED] will facilitate this. We discussed smoking cessation preoperatively.
4. Steroid use - recently increased to 40 mg.
5. GYN - per [REDACTED] Recent vaginal discharge.
6. Right third MCP lesion - I think benign and do not think inflammatory arthritis.
7. Left third distal phalanx endochondroma - large - pursue subsequently.
8. Bilateral wrist abnormalities on x-ray with scapholunate instability.

~~XXXXXXXXXX~~
01/04/2008
Page Three (3)

9. Activity status - she previously was employed at E [redacted] firm. She was there seven years as an [redacted] I saw her as a new patient, August 30, 2007. She did not come for her first return appointment, October 17, 2007. She called the office that she had ceased working. The last day of work at September 6, 2007. I was unable to write for disability without seeing her. I think there was a misunderstanding where by I [redacted] felt I instructed him to write this. She also had problem getting her followup scheduled until today. I talked with [redacted] today. The patient states that her work position has been eliminated.
10. ASPVD - noted on CAT scan films.

I will ask [redacted] to supply some information from her employer. I told her that I think she is best served working to maintain her activity level. However, she has been off work. I recommend physical therapy regarding cervical, thoracic, and lumbar disc disease and sacroiliitis for three weeks. To Whom It May Concern: The patient is unable to work until July 4, 2008. At that time, she will have no restrictions. I request information regarding employment and reassess January 10, 2008.

She will come in the office January 10, 2008, for review of her employment information. I will see her back in two months. Continue her Relafen, Lortab, and Soma. Soma was written today.

Twenty-five minutes spent with the patient today.

Thanks. Will be in touch.

Sincerely yours,

B. [redacted]

CC/AAAP/Vashi Transcribe/CD

cc: [redacted]

PATIENT: [REDACTED]
START OF CARE: 07/30/2008
AGE / DOB: [REDACTED]
PROVIDER: [REDACTED]
MEDICAL Dx: Lumbar degenerative disc disease (DDD).

HICN: N/A
DATE OF ONSET: 07/24/2008, per prescription
SEX: Female
PROVIDER #: N/A
TREATMENT Dx: Back and bilateral lower extremity pain and decreased functional mobility.

SHORT-TERM GOALS:

1. The patient will be independent with home exercise program.
2. The patient will rate pain less than 6/10 at its worst.

LONG-TERM GOALS:

1. The patient will rate pain less than 4/10 at its worst.
2. The patient will report performing laundry, baking, and reaching for objects on lower shelves without exacerbations of pain.
3. The patient will report not having to reposition self more than every 25 minutes without the exacerbation of pain.

PLAN OF TREATMENT (TREATMENT INTERVENTION): Physical therapy for therapeutic exercises, manual therapy, and modalities to decrease pain and increase strength.

FREQUENCY / DURATION: 3 times per week x 4 weeks.

MEDICARE CERTIFICATION PERIOD: N/A.

PRECAUTIONS / CONTRAINDICATIONS: N/A.

PERTINENT MEDICAL HISTORY: The patient complains of back pain for greater than one year. **PAST MEDICAL HISTORY:** Crohn's disease and hypertension. The patient states she has had previous physical therapy for manual therapy and mechanical traction and states that it was quite helpful. **PRIOR LEVEL OF FUNCTION:** Independent. **CURRENT LIVING STATUS / SITUATION:** The patient lives with her significant other. She has no stairs. She currently is unemployed and on disability since September 2007. She states she has difficulty sitting and standing for more than 10 minutes. She has difficulty performing laundry, vacuuming, baking, and getting into the lower shelves at the grocery store. She enjoys sewing, crocheting, reading, bicycling, cooking, and baking. The patient previously worked in an [REDACTED] firm performing [REDACTED]

PATIENT GOALS: "To go back to work."

PATIENT EDUCATION NEEDS: The patient was provided with a home exercise program. It was discussed with her the importance of continuing with the exercise program even after discharge from therapy.

F [REDACTED]

7-30-08
07/30/2008



[REDACTED]

[REDACTED]

PATIENT:

~~XXXXXXXXXX~~

HICN:

N/A

RESULTS OF EVALUATION: PALPATION / VISUAL INSPECTION: The patient presents with muscle tightness in the paraspinal lumbar region. She had an ERSR at T5 and an ERSR at T8. **PAIN:** Pain is 8/10 at its worst and 0/10 at its best; both scores patient gave are with pain medications and during activity. The patient states pain starts around L4-L5 and radiates down both lower extremities to her feet. **POSTURE / ALIGNMENT:** The patient has an elevated right shoulder and pelvis with increased lordosis. **ROM / JOINT MOBILITY:** Within normal limits. However, the patient does have tight hamstrings at 75 degrees on the right and 60 degrees on the left supine. **STRENGTH:** Strength is 5/5 in all four extremities. **BALANCE:** Within normal limits. **GAIT:** Within normal limits. **SENSATION:** Intact. **SPECIAL TESTS:** N/A. **ADDITIONAL FINDINGS:** N/A.

TREATMENT PROCEDURES:

1. Evaluation.
2. Therapeutic exercises.
3. Home exercise program.

CLINICAL IMPRESSION: The patient presents with back and lower extremity pain with decreased functional mobility.

REHABILITATION POTENTIAL & DISCHARGE PLAN: The patient is a 52-year-old female referred to physical therapy with lumbar DDD. She is a good rehabilitation candidate based on prior level of function and motivation. The patient will be discharged when goals are met or if she fails to respond to therapy. She will be discharged with a home exercise program.

PJ:wn

cc:

? _____
File

U0020403021 AM 15 0730700
 F
 PRISON, MICHAEL HILL, M.D. MD
 [Barcode]

411 _____

 FT - Orthopedic Evaluation
 Page 3 of 3

~~CONFIDENTIAL~~
Board Certified Rheumatology

July 31, 2008

(Primary Care)
Fax: (405) 945-5220

(Gastroenterology)
Fax: (405) 632-4073

(Spine Orthopedics)
Fax: (405) 692-1632

Re: [REDACTED]
DOB: [REDACTED]

Dear Doctors:

[REDACTED] returns. [REDACTED] was last seen July 8, 2008. She is continuing to have lumbar pain that radiates down the left leg. She saw [REDACTED] July 24, 2008. She has had cervical and lumbar epidurals. Her pain has persisted in the lumbar spine.

Regarding her employment: Her last day of work was September 6, 2007. There was miscommunication among L [REDACTED] and me regarding her work situation. E [REDACTED] placed her off work approximately September 6, 2007, to January 4, 2008. I wrote for disability from January 4, 2008 until July 4, 2008. She was to see I [REDACTED] before July 4, 2008 regarding spine disposition and his opinion of activity restrictions. When I saw her on July 8, 2008, I continued her disability, awaiting [REDACTED] opinion.

Her pain is severe. She has problems sitting and standing for more than 10 minutes at a time. Her neck pain is better after cervical epidurals. She does have some lower thoracic pain.

EXAM:

There is some cervical spasm. Thoracic spine with some tenderness in the lower thoracic region. Lumbar spine with tenderness left greater than right. Normal reflexes and strength in the lower extremities. Knees with crepitus.

X-RAYS:

Cervical spine, C4-C7 spurs, especially C5-C7. C5-C7 with disc disease and neuroforamen impingement. Loss of lordosis. Lumbar spine, some facet arthritis L4-S1. ASPVD. AP pelvis is unremarkable.

Lumbar MRI is reviewed. Left renal cyst is noted. T12-L1 with right-sided ruptured disc. L1-L2 I think with right-sided disc bulge. L2-L3 with facet arthritis. L3-L4 disc bulge, facet arthritis, mild spinal stenosis, and mild neuroforamen impingement. L4-L5 with dehydrated disc, extruded disc to the left with severe neuroforamen impingement left greater than right. L5-S1 with central disc and facet arthritis with spinal stenosis and bilateral neuroforamen narrowing. Radiology does not note abnormalities at T12-L2.

[REDACTED]
07/31/2008

Page Two (2)

What is going on?

1. Lumbar disc disease with left-sided ruptured disc at L4-L5. This developed since September 2007 lumbar MRI. She starts physical therapy and sees I [REDACTED] September 4, 2008. The L4-L5 ruptured disc is large. She has no neurologic deficit.
2. Cervical disc disease, better with epidurals.
3. Thoracic disc disease - will get a thoracic MRI. She has right T12-L1 with rupture on the right.
4. Crohn's, under I [REDACTED] care. The patient is on Remicade and prednisone.
5. Steroid use - the patient with Crohn's. She takes 20 mg tapering down to 0 every six weeks which cycles with her Remicade.
6. Bilateral knee pain - will x-ray on followup.

To Whom It May Concern: The patient is unable to work until September 4, 2008. I will see her that day after she sees I [REDACTED] t. At that time, will x-ray her knees.

Thanks. Will be in touch.

Sincerely yours,

[REDACTED]
CC/AAAP/I [REDACTED]

cc: [REDACTED]
[REDACTED]

SOCIAL SECURITY NOTICE

From: Social Security Administration

Date: August 5, 2008

Claim Number: [REDACTED]
Claim for: DIB

[REDACTED] ZEMAN
[REDACTED]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

We have enclosed information about the disability rules and more details about the decision on your claim.

ABOUT THE DECISION

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

The following reports were used to decide your claim:

- [REDACTED] evidence received 07/28/2008
- [REDACTED] evidence received 07/08/2008
- [REDACTED] evidence received 07/08/2008
- [REDACTED] evidence received 07/22/2008
- [REDACTED] evidence received 06/28/2008

We have determined that your condition is not severe enough to keep you from

XXX-X [REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #8d

working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affected your ability to work.

You said that you are unable to work because of Crohn's disease and degenerative arthritis of the neck and lower back.

The medical evidence shows the following: You have arthritis of your neck and back. While you are not able to move your neck and back as well as you used to, you are still able to do some types of work. While you have been treated for Crohn's Disease, this condition has not seriously affected your ability to work. Medical evidence does not show any other impairments which keep you from working.

Based on your description of the work you performed as an administrative assistant for six years and six months, evidence indicates you are capable of doing this type of work.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

In addition, you are not entitled to any other benefits based on this application. If you applied for other benefits, you will receive a separate notice when a decision is made on that claim(s).

IF YOU DISAGREE WITH THE DECISION

If you disagree with the decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case.

- You have 60 days to ask for an appeal
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to complete a form SSA-561-U2, called "Request for Reconsideration". You may contact one of our offices or call 1-800-772-1213 to request this form. Or you may complete this form online at <http://www.socialsecurity.gov/disability/appeal>. Contact one of our offices if you want help.
- In addition, you should complete a "Disability Report - Appeal" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online after you complete the online Request for Reconsideration.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the appeal.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

IF YOU WANT HELP WITH YOUR APPEAL

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security Office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due benefits to pay toward the fee.

OTHER BENEFITS

Based on the application you filed, you are not entitled to any other benefits, besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again.

REQUIREMENTS FOR DISABILITY BENEFITS

DISABILITY INSURANCE BENEFITS

To be considered disabled, a person must be unable to do any substantial gainful work due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in her or his usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether s/he can work. The condition must be disabling at a time when the person meets the earnings requirement. If you were not disabled when the earnings requirement was met, we have enclosed a leaflet which explains the earnings requirement and tells how Social Security credits are earned.

DISABLED WIDOW OR WIDOWER BENEFITS

To be considered disabled, a widow, widower or surviving divorced spouse (age 50 to 60) must have a physical or mental condition severe enough to keep a person from working. The condition must have lasted or be expected to last for at least 12 months in a row.

The person's disability must start:

- * not less than 7 years after the month of death of the wife or husband, or
- * for a widow, widower, or surviving divorced spouse, formerly entitled to mother's or father's benefits not later than 7 years after the month those benefits ended, or
- * for a widow, widower, or surviving divorced spouse who was previously disabled and who becomes disabled again, not later than 7 years after the prior period of disability ended.

CHILDHOOD DISABILITY BENEFITS

Childhood disability benefits may be paid to a person age 18 or older if the person has a disability which began before age 22 or within 84 months of the end of an earlier period of childhood disability. The condition, whether physical or mental, must be severe enough to keep the person from doing any substantial gainful work. We look at the person's age, education and previous training when we decide whether he or she can work. In addition, the condition must have lasted or be expected to last for at least 12 months in a row.

OTHER IMPORTANT INFORMATION

Definitions of disability are not the same in all government and private disability programs. Government agencies must follow the laws that apply to their own disability programs. A finding by a private organization or other government agency that a person is disabled does not necessarily mean that the person meets the disability requirements of the Social Security Act.

IF YOU HAVE ANY QUESTIONS

If you have any questions, you may call us toll free at 1-800-772-1213. We can answer most questions over the phone. You can also write or visit any Social Security Office. The office that serves your area is located at:

200 NE 27TH
MOORE, OK 73160

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us to serve you more quickly.

Ramona Schuenemeyer
Regional Commissioner

JCO/jco

Enclosure:
SSA Pub. No. 05-10058

DO 792

XXX-XX-XXXX

Board Certified Rheumatology

November 18, 2008

Re: [REDACTED]
DOB: [REDACTED]

[REDACTED] comes for followup. This accompanies her full note. Dr. [REDACTED] wrote OxyContin 60 mg b.i.d. #28 on October 29, 2008. She filled it at [REDACTED]. After seeing [REDACTED] she had a med check in my office. I wrote for OxyContin 20 mg b.i.d. #60 which was filled at [REDACTED] at [REDACTED]. I also wrote for Soma t.i.d. #90.

She used 1 [REDACTED] s OxyContin 60 mg and now takes OxyContin 20 mg b.i.d. At this OxyContin dose, she does not need to taper off. She takes Lortab 10 mg. She resumed smoking. She quite smoking for three months and has resumed. The patient is postop. She is not on a nonsteroidal. She is off of prednisone. She received Remicade November 6, 2008, for Crohn's by [REDACTED]. Will get with Dr. [REDACTED] regarding Remicade.

Will discharge the patient for noncompliance.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

**SOCIAL SECURITY NOTICE
NOTICE OF RECONSIDERATION**

From: Social Security Administration

Date: December 23, 2008

Claim Number: [REDACTED]
Claim for: DIB

[REDACTED]
[REDACTED]

Upon receipt of your request for reconsideration we had your claim independently reviewed by a physician and disability examiner in the state agency which works with us in making disability determinations. The evidence in your case has been thoroughly evaluated; this includes the medical evidence and the additional information received since the original decision. We find that the previous determination denying your claim was proper under the law. Attached to this notice is an explanation of the decision we made on your claim and how we arrived at it. The reverse of this notice identifies the legal requirements for your type of claim.

ABOUT THE DECISION

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

In addition to the reports we told you about in our first letter, the following reports were used to decide your claim.

[REDACTED] evidence received 10/16/2008
[REDACTED] evidence received 10/20/2008
[REDACTED] evidence received 10/06/2008
INTEGRIS - [REDACTED] E OUTPATIENT REHAB SVCS evidence received 10/27/2008
[REDACTED] evidence received 11/16/2008
[REDACTED] evidence received 11/19/2008

XXX- [REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #8f

have applied for other benefits, you will receive a separate notice when a decision is made on that claim.

Summarized below are legal requirements for the various types of disability claims:

DISABILITY INSURANCE CLAIM

To be considered disabled, a person must be unable to do any substantial gainful work due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in his or her usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether he or she can work.

DISABLED WIDOW (WIDOWER) CLAIM

A widow, widower, or surviving divorced wife (age 50-60) must meet the disability requirement of the law within a specified 7-year period. A person may be considered disabled only if he or she has a physical or mental impairment that is so severe as to ordinarily prevent a person from working. The disability must have lasted or be expected to last for a continuous period of at least 12 months.

CHILDHOOD DISABILITY BENEFITS

Childhood disability benefits may be paid to a person age 18 or older if the person has a disability which began before age 22 or within 84 months of the end of an earlier period of childhood disability. The condition, whether physical or mental, must be severe enough to keep a person from doing any substantial gainful work. We look at the person's age, education and previous training when we decide whether he or she can work. In addition, the condition must have lasted or be expected to last for at least 12 months in a row.

Ramona Schuenemeyer
Regional Commissioner

WKE/wke

Enclosure:
SSA Pub. No. 70-10281
Form SSA-1 928-112

DO 792

 
Life Reclaimed 





April 21, 2009

ADMINISTRATIVE LAW JUDGE
OFFICE OF DISABILITY ADJUDICATION AND REVIEW
STE 300 FEDERAL CAMPUS
301 NW 6TH ST
OKLAHOMA CITY OK 73102-3026





**PLEASE SHOW TO ALJ
OR STAFF ATTY**

RE: 
SSN: 

Dear Judge:

Please find enclosed a physical evaluation completed by  and rehab notes dated March 12, 2009 from  the Outpatient Rehab. Please add this medical information to the Exhibit file. The claimant respectfully requests a case review for a favorable on-the-record decision.

The claimant is a 53-year old individual with a high school education and a past work history as an administrative assistant. She stopped working on September 5, 2007 due to degenerative disc disease, crohn's disease, arthritis, and anxiety. After the claimant sopped working on September 5, 2007, she received short term disability from her employer until February 2008 and then long term disability started. Long term disability started in March 2008 and the claimant received approximately \$1618.00 on a monthly basis.

 is the claimant's treating rheumatologist. She completed the enclosed physical capacities dated March 18, 2009 indicating the claimant cannot perform the requirements of even sedentary work. The claimant needs to alternate her sitting and standing at will throughout the day. She cannot use her hands adequately for simple grasping, fine manipulation, and repetitive motion tasks. The claimant can lift/carry occasionally up to 5 pounds but should never lift/carry over that amount.  writes the claimant is in constant pain and her condition is chronic and incurable. The claimant requires daily pain medication and prolonged periods of rest due to fatigue and pain.  writes the claimant has chronic pain and inflammation in the joints, diffuse musculo-skeletal pain which is causing fatigue, inability to concentrate and potential absences from a job due to disease exacerbation. The pain, according to  would be disabling to the extent that it would prevent the claimant from working full time at even a sedentary position.



Permanent Subcommittee on Investigations
EXHIBIT #8g

RE: [REDACTED]
SSN: [REDACTED]
Page 2

The notes from J. [REDACTED] : Rehab, dated March 12, 2009, indicate the claimant has bilateral hand pain, bilateral foot pain, low back pain, thoracic pain, and hip pain. The claimant cannot perform normal ADLs at home, including vacuuming, unloading dishwasher, or doing laundry.

[REDACTED] respectfully request that controlling weight in your decision be given to the opinion of her treating rheumatologist, [REDACTED] in accordance with Section 404.1527(d) and SSR 96-2p.

The claimant's impairments cause her to have limitations of function that would preclude her from performing her past relevant work or any work on a sustained basis. She has limitations that would preclude an individual from being able to perform even sedentary work over the course of a normal 8-hour day or a 40-hour work week. According to SSR96-8p, a finding of disabled is warranted when an individual is unable to sustain work performance over the course of the normal workday or workweek.

We respectfully request your review of the enclosed medical information and thoughtful consideration of a favorable on-the-record decision in [REDACTED] disability case. If I can be of any assistance or answer any questions, please contact me at [REDACTED]

Sincerely,



Representative



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
SSA ODAR Hearing Office
301 N. W. 6th St.
3rd Floor West
Oklahoma City, OK 73102

Date: May 21, 2009

[REDACTED]

NOTICE OF ATTORNEY ADVISOR DECISION – FULLY FAVORABLE

As a result of an additional review, we are able to make a fully favorable medical decision and find that you meet the medical requirements for disability benefits. The onset of your disability is established as of September 5, 2007.

Therefore, it is not necessary to have your case decided at the hearing level by an Administrative Law Judge.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. We have not yet made a decision about whether you meet the nonmedical requirements, but we will make that decision soon. You will soon get a notice about the amount of your payments if you meet the nonmedical requirements.

If you agree with our revised decision, you need take no further action and your hearing request will be dismissed.

If You Disagree With The Decision

If you disagree with our revised decision, you may request that the Office of Disability Adjudication and Review proceed with your pending request for hearing. Your request should be made in writing and filed within 30 days from the mailing date of this notice. Your request may be filed with any Social Security office.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)799-0702. Its address is Social Security, 200 N. E. 27th, Moore,

[REDACTED]

[REDACTED]

Elaine D. Benda
Senior Attorney Advisor

Enclosures:
Form HA-L15 (Fee Agreement Approval)
Decision Rationale


cc: 1 [REDACTED]
[REDACTED]
[REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ATTORNEY ADVISOR

IN THE CASE OF


CLAIM FOR



(Claimant)

Period of Disability and Disability Insurance
Benefits

(Wage Earner)



(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Regional Chief Administrative Law Judge
SSA ODAR Regional Office
Room 460
1301 Young St.
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Attorney Advisor within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

/s/ *Elaine D. Benda*

Elaine D. Benda
Senior Attorney Advisor

May 21, 2009

Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

[REDACTED]

Period of Disability and Disability Insurance
Benefits

(Claimant)

[REDACTED]

(Wage Earner)

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

The claimant, [REDACTED], filed an application for disability insurance benefits on June 23, 2008. She alleged an inability to work, beginning September 5, 2007, due to Crohn's disease, neck and back problems, and arthritis. The claim was denied initially and on reconsideration. The matter is now properly before the undersigned on a timely request for hearing. A [REDACTED] and [REDACTED] nonattorneys, represent the claimant in this matter.

ISSUES

The general issue is whether the claimant is entitled to a period of disability and disability insurance benefits under sections 216(i) and 223 of the Social Security Act. The specific issue is whether [REDACTED] is under a disability, which is defined as the inability to engage in any substantial gainful activity by reason of an impairment expected either to result in death or last for a continuous period of at least 12 months. In resolving these issues, the provisions of Social Security Rulings 96-1p through 96-9p and their underlying regulations have been carefully considered and applied where applicable.

There is an additional issue pertaining to insured status. Information contained in Ms. [REDACTED] earnings record reveals that she has acquired sufficient quarters of coverage to remain insured at least through December 31, 2013.

CONCLUSION

After giving careful consideration to all the evidence, the undersigned concludes that a favorable decision is warranted without the need for testimony; thus, no hearing has been held. The documentary records support a finding that since September 5, 2007, the claimant has had medically determinable impairments, namely degenerative disc disease of the cervical, thoracic, and lumbar spines, Crohn's disease, obesity, and chronic pain, that impose significant restrictions on her ability to perform basic work activities. Although these impairments do not meet or equal any listing, singly or in combination, they do result in a residual functional capacity for less than

a full range of sedentary work. Given such a residual functional capacity, the claimant is unable to perform her past relevant work, and considering her age, education, work experience, and residual functional capacity, she is not able to make an adjustment to work that exists in significant numbers in the national economy. For this reason, the undersigned finds the claimant has been under a disability since September 5, 2007, and she may receive appropriate disability insurance benefits by virtue of her application of June 23, 2008.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2013.
2. The claimant has not engaged in substantial gainful activity since September 5, 2007, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

Any amounts received since the alleged onset date are from short-term and long-term disability payments from the claimant's former employer.

3. The claimant has the following severe impairment(s): degenerative disc disease of the cervical, thoracic, and lumbar spines, Crohn's disease, obesity, and chronic pain (20 CFR 404.1520(c)).

An impairment is "severe" within the meaning of the regulations if it imposes significant restrictions on the ability to perform basic work activities. If an impairment is "not severe," it must be a slight abnormality or combination of slight abnormalities that has no more than a minimal effect on the ability to do basic work activities (SSR 96-3p).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).
5. The claimant has the residual functional capacity to perform less than a full range of sedentary work (20 CFR 404.1567(a)).

The undersigned must next determine the claimant's residual functional capacity, a term which describes the range of work activities the claimant can perform despite her impairments. In assessing the claimant's residual functional capacity, consideration must be given to subjective allegations. In evaluating subjective complaints, the undersigned must give careful consideration to all avenues presented that relate to such matters as:

1. The nature, location, onset, duration, frequency, radiation, and intensity of any pain;
2. Precipitating and aggravating factors (e.g., movement, activity, environmental conditions);
3. Type, dosage, effectiveness, and adverse side-effects of any pain medication;
4. Treatment, other than medication, for relief of pain;
5. Functional restrictions; and
6. The claimant's daily activities

(20 CFR 404.1529). In evaluating the claimant's subjective complaints, the undersigned also considered Social Security Ruling 96-7p and Luna v. Bowen, 834 F.2d 161 (10th Cir.1987). Social Security Ruling 96-7p discusses a two-step analysis in evaluating pain. Step one requires a determination of whether there is a medically determinable impairment that could reasonably be expected to produce the individual's pain or other symptoms. The adjudicator should proceed to step two only if such an impairment exists. At step two, the adjudicator must evaluate the intensity, persistence, and limiting effects of the individual's pain and other symptoms to determine the extent to which the symptoms limit the claimant's ability to do basic work activities.

The claimant's statements concerning her impairments and their impact on her ability to work are generally credible in light of the reports of the treating and examining practitioners, the findings made on examination, the degree of medical treatment required, and her description of her activities and life style. [REDACTED] says she experiences difficulty walking, standing, and sitting for extended periods of time due to severe pain in her back. She says she has difficulty lifting and carrying anything heavy due to severe pain in her back. She says her fingers go numb. She says her neck and back pain radiates into her arms and legs. She says she is easily fatigued with minimal physical exertion. [REDACTED] says she has difficulty falling and staying asleep, and she awakens frequently during the night due to pain. She says she never feels fully rested when she wakes up in the morning. She says that she must take frequent breaks while attempting to do housework. She says that virtually all movement worsens her pain. The claimant has impairments that are reasonably expected to produce the type of pain and limitation she alleges.

The record shows that the claimant has a history of Crohn's disease, which is now apparently stabilized on medications; however, she continues to experience diarrhea several times a day.

The medical record mentions that the claimant's diffuse joint pain may be related at least in part to her history of Crohn's disease.

Objective testing documents multiple abnormalities throughout the claimant's spine. There is disc bulging with varying degrees of spinal stenosis throughout the cervical, thoracic, and lumbosacral spines. She has participated in conservative treatment that has included physical therapy and epidural steroid injections; however, none of this has resulted in significant relief. She had L4-5 laminectomy discectomy on October 14, 2008, and while this may have helped some, it is documented in the treating records that she continues to have chronic and constant low back pain that requires daily pain medications. The record also states that the claimant is five feet nine inches tall, and during the relevant period, her weight has been over 200 pounds, which equates to a body mass index of 30 or higher. The undersigned finds that the combined effects of obesity with the claimant's other severe impairments is greater than the effects of each of the impairments considered separately.

Dr. [redacted] is the claimant's treating rheumatologist. She completed a physical capacities evaluation on March 18, 2009, indicating the claimant cannot perform the requirements of even sedentary work. Dr. [redacted] opines that the claimant needs to alternate her sitting and standing at will throughout the day. She cannot use her hands adequately for simple grasping, fine manipulation, and repetitive motion tasks. The claimant can lift/carry occasionally up to five pounds but should never lift/carry over that amount. Dr. [redacted] writes the claimant is in constant pain, and her condition is chronic and incurable. The claimant requires daily pain medication and prolonged periods of rest due to fatigue and pain. Dr. [redacted] writes the claimant has chronic pain and inflammation in the joints, diffuse musculoskeletal pain which is causing fatigue, inability to concentrate and would have potential absences from a job due to disease exacerbation. The pain, according to Dr. [redacted], would be disabling to the extent that it would prevent the claimant from working full time at even a sedentary position. The undersigned finds that Dr. [redacted]'s opinion is supported by medically acceptable clinical and laboratory diagnostic techniques and not inconsistent with the other substantial evidence in the record; therefore, it is entitled to controlling weight (SSR 96-2p).

As per Social Security Ruling 96-6p, the undersigned also considered the opinion of the State agency medical consultants at the earlier determination levels. Based on additional evidence received into the record at the hearing level, the undersigned finds that the claimant is more limited than was earlier thought. The State agency medical consultants did not adequately consider the combined effect of the claimant's impairments or her credible complaints of pain.

The undersigned finds that the claimant retains the residual functional capacity to perform the demands of less than a full range of sedentary work. She can lift/carry five pounds occasionally, and she can sit less than six hours and stand/walk less than two hours total during an eight-hour day. She needs an option to alternate positions between sitting, standing, and lying at will. She cannot push, pull, or reach frequently or repetitively, and she cannot use her hands frequently or repetitively. Due to chronic pain and fatigue, her ability to maintain concentration, persistence, and pace to any activity is diminished, and she cannot perform work involving attention to detail or exercise of independent judgment. Due to chronic pain and fatigue, her overall endurance and

stamina for activity is diminished, and she requires the ability to take frequent unscheduled rest breaks throughout the day.

6. The claimant is unable to perform her past relevant work (20 CFR 404.1565).

The undersigned finds that the aforementioned residual functional capacity would preclude the claimant from performing her past relevant work as an administrative assistant or information collector, as these jobs required her to remain in one static position for extended periods without interruption, to use her arms frequently or repetitively, and to perform work involving attention to detail, and her past relevant work did not allow for frequent and unscheduled breaks. The demands of the claimant's past relevant work exceed her residual functional capacity.

7. The claimant is an individual closely approaching advanced age for all purposes of this decision (20 CFR 404.1563).

Born [REDACTED], the claimant was 51 years old on the date of alleged onset of disability and is now 53 years old.

8. The claimant has the equivalent of a high school education (i.e., GED) (20 CFR 404.1564).

9. The claimant has not acquired any skills from past relevant work that would transfer to other work within her residual functional capacity (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

If [REDACTED] were capable of performing a full range of sedentary work, a finding of "disabled" would be reached by application of Medical-Vocational Rule 201.14. As a finding of "disabled" can be made on the basis of the exertional limitations alone, it is unnecessary to consider the further effects of any nonexertional limitations. Considering the claimant's age, education, work experience, and residual functional capacity, the undersigned finds that the claimant cannot make a vocational adjustment to work existing in significant numbers in the national economy. A finding of "disabled" may be reached by application of the above-mentioned rule.

11. The claimant has been under a disability as defined in the Social Security Act since September 5, 2007, the alleged onset date of disability (20 CFR 404.1520(g)).

As the symptoms that prevent the claimant from working have been present since September 5, 2007, a conclusion will be reached that she has been under a disability beginning on that date. In accordance with a finding that the claimant has been under a disability beginning September 5, 2007, she may receive appropriate disability insurance benefits by virtue of her application of June 23, 2008.

DECISION

It is the decision of the undersigned that, based on the application filed on June 23, 2008, the claimant is entitled to a period of disability commencing September 5, 2007, and to disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act.

/s/ *Elaine D. Benda*

Elaine D. Benda
Senior Attorney Advisor

May 21, 2009

Date

DR: [REDACTED]
RE: [REDACTED]
SSN: XXX-XX-XXXX

PHYSICAL CAPACITIES EVALUATION

IMPORTANT: Please complete the following items based on your clinical evaluation, other testing results, client discussions and/or medical treatment. Any item that you believe you cannot answer should be marked N/A (Not Available).

In an 8-hour work day, patient can (circle full capacity for each activity):

TOTAL DURING ENTIRE 8-HOUR DAY (Note: If the combined number of hours of sitting, standing/walking does not add up to eight hours, it will be assumed patient cannot maintain body posture consistent with full-time work)

A. Sit	(No. hrs.):	less than 1	1	2	3	4	5	6 or more
B. Stand/Walk	(No. hrs.):	less than 1	1	2	3	4	5	6 or more

Does your patient need an opportunity to alternate sitting and standing at will throughout the day?

YES X NO _____

Patient can use hands adequately for the following: (AT TIMES)

	<u>Simple Grasping</u>	<u>Pushing & Pulling</u>	<u>Fine Manipulation</u>
RIGHT:	YES _____ NO <u>X</u>	YES <u>X</u> NO _____	YES _____ NO <u>X</u>
LEFT:	YES _____ NO <u>X</u>	YES <u>X</u> NO _____	YES _____ NO <u>X</u>

Patient can use hands for repetitive motion tasks (writing, typing, assembly, etc.)

LEFT: YES _____ NO X RIGHT: YES _____ NO X

Patient can use feet for repetitive movements as in operating foot controls: (AT TIMES)

<u>RIGHT</u>	<u>LEFT</u>	<u>BOTH</u>
YES _____ NO <u>X</u>	YES _____ NO <u>X</u>	YES _____ NO <u>X</u>

DR: [REDACTED]
RE: [REDACTED] [REDACTED]
SSN: xxx-xx-xxxx

NOTE: IN TERMS OF AN 8-HOUR WORK DAY, "OCCASIONALLY" refers to up to 33% of the day; "FREQUENTLY" 34% - 100%

Patient can lift/carry:	<u>NEVER</u>	<u>OCCASIONALLY</u>	<u>FREQUENTLY</u>
A. 0 to 5 lbs.	_____	<u>X</u>	_____
B. 6 to 10 lbs.	<u>X</u>	_____	_____
C. 11 to 20 lbs.	<u>X</u>	_____	_____
D. 21 to 50 lbs.	<u>X</u>	_____	_____
E. 51 to 100 lbs.	<u>X</u>	_____	_____

Patient is able to:	<u>NEVER</u>	<u>OCCASIONALLY</u>	<u>FREQUENTLY</u>
A. Climb	_____	<u>X</u>	_____
B. Balance	_____	_____	<u>X</u>
C. Stoop	_____	<u>X</u>	_____
D. Kneel	_____	<u>X</u>	_____
E. Crouch	_____	<u>X</u>	_____
F. Crawl	_____	<u>X</u>	_____
G. Reach above shoulder level	_____	_____	<u>X</u>

Restriction of activities involving:	<u>TOTAL</u>	<u>SEVERE</u>	<u>MODERATE</u>	<u>MILD</u>	<u>NONE</u>
A. Unprotected heights:	_____	_____	_____	_____	<u>X</u>
B. Being around moving machinery:	_____	_____	_____	_____	<u>X</u>
C. Exposure to marked changes in temperature and humidity	_____	_____	_____	<u>X</u>	_____
D. Driving automotive equipment	_____	_____	_____	_____	<u>X</u>
E. Exposure to dust, fumes, and gases	_____	_____	_____	_____	<u>X</u>

ADDITIONAL COMMENTS:

The patient is in constant pain, condition is chronic and uncurable. Requires daily pain meds and prolonged periods of rest 20% to fatigue and pain.

Physician's Signature

March 18, 2009
Date

DR: [Redacted]
RE: [Redacted]
SSN: xxx-xx-xxxx

Does the patient suffer from pain?

YES NO

If yes, is there a reasonable medical basis for this patient's pain?

YES NO

Please describe:

Chronic pain and inflammation in the joints, diffuse musculo-skeletal pain which causing fatigue, inability to concentrate and potential absence from the job 2° to disease exacerbation

If yes, is the pain disabling to the extent that it would prevent the patient from working full time at even a sedentary position?

YES NO

Physician's Signature

March 18, 2009
Date

[REDACTED]

November 26, 2008

[REDACTED]

RE: [REDACTED]

Dear [REDACTED]

This is a 52-year-old woman with a history of Crohn's disease and inflammatory arthritis. The patient was diagnosed with Crohn's disease three years ago and for the last year she has been on Remicade 900 mg IV every six weeks. Her gastroenterologist is [REDACTED]. He also gave her Pentasa and prednisone on an as needed basis. The patient was receiving rheumatologic care with [REDACTED] and she prescribed Celebrex 200 mg p.o. daily, OxyContin 20 mg p.o. b.i.d. and Lortab 10 mg every four hours and Soma 350 mg t.i.d. She decided to switch her care to another rheumatologist and that is why I see her today. The patient recently underwent surgery on her back, secondary to disk problems. Today the patient describes severe pain in her hips and her elbows. She requires pain medications around the clock. She denies red, hot joints today. She denies a history of inflammation in her eyes or psoriatic skin disease. Her mother has psoriatic arthritis and two of her sisters have Crohn's disease.

Her physical examination today was remarkable for minimal tenderness to palpation of the back. I removed her spinal brace to examine her. I could not appreciate any evidence of synovitis or dactylitis in the peripheral joints of the upper or lower extremities. But, she has tenderness to palpation of the elbows with preserved range of motion. The patient will continue taking the Remicade administered by [REDACTED]. I refilled her pain medications today and we will see this patient back in three months.

Sincerely,

[REDACTED]
NM/siq

Electronically signed by [REDACTED] on 12/02/2008 09:42:42

Cc: [REDACTED]

[Redacted]

January 22, 2009

[Redacted]

v. h... 1/16/09

Do you have other patients who need help with SSDI?
Busy healthcare providers use:
AllsupCares.com

[Redacted]

DEAR I [Redacted]

I am representing your patient in a claim for Social Security Disability/Medicare Benefits that is under appeal. I am pursuing a timely approval of benefits and additional information is needed to document the patient's medical file, which includes the following:

Office notes, X-ray reports, and testings from 11-2008 TO PRESENT *note 11-2008*

Enclosed questionnaire (The questionnaire should be completed based on your existing knowledge of the patient's medical conditions).

Enclosed for your file is the Authorization for Release of Confidential Information, verifying I have been appointed the patient's representative and entitled to obtain confidential medical records.

Because timing is so critical to this process, a prompt, fixed response would be greatly appreciated. Please fax this information with a copy of our request to (618) 236-8554. If you have any questions, please call (800) 903-3558. An Allsup specialist will contact you in two weeks to inquire on the status. Thank you for your assistance.

Sincerely,

[Redacted signature]

[Redacted]
Social Security Consultant

Enclosure

1-22-09
6
ps

[Redacted]

[Redacted]

dnotes.doc

Received Time Jan. 22. 2009 8:

Permanent Subcommittee on Investigations
EXHIBIT #8k

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

SEX: F

INSURANCE CO: ZZZAETNA

Date of Service: 07/24/2008 Doctor: I _____ MD O/V-INITIAL
Entered on 07/29/2008 at 03:59 pm

The opinions expressed herein are stated within a reasonable degree of medical certainty.

MHW/MD/vdb

cc: _____
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] DOB: [REDACTED] SEX: F
INSURANCE CO: ZZZAETNA

Date of Service: 07/24/2008 Doctor: [REDACTED] O/V-INITIAL
Entered on 07/29/2008 at 03:59 pm

CHIEF COMPLAINT: Low back pain, left leg pain.

HISTORY OF PRESENT ILLNESS: [REDACTED] is a 51 year old female with a one year history of low back pain and left leg pain. She has had her MRI and she has had three visits of physical therapy with no significant relief. She has had three epidural steroid injections in her lumbar spine without any significant relief. She complains of low back pain as 70% of her complaints and 30% left leg and hip pain. The leg and hip pain is worse at night. She has no pain increased with coughing or sneezing, and no bowel or bladder dysfunction. She has 8 out of 10 worst day pain and sitting or leaning over increases her pain.

PAST MEDICAL HISTORY: Crone's, hypertension, obesity.

PAST SURGICAL HISTORY: Hernia repair, carpal tunnel release, tubal ligation.

OCCUPATIONAL HISTORY: She is a 51 year old female who is currently on disability. She works for an architectural firm.

CURRENT MEDICATIONS: Remicade.

ALLERGIES: Codeine.

SOCIAL HISTORY: She is a 51 year old divorced female with 2 children over the age of 18. She does not smoke at present. She quit one month ago. She does not drink alcohol but she drinks 12 cups of coffee a day.

PHYSICAL EXAMINATION: This is a well nourished, well developed 204 pound female. She ambulates in a normal heel/toe, toe/toe, heel/heel gait with level hips, pelvis and shoulders, normal coronal and sagittal contours to the cervical, thoracic and lumbar spine. She has 5/5 motor strength in her lower extremities, no long tract findings, no clonus. She has a negative straight leg raising examination in a seated position and slightly reduced range of motion by approximately 10% in all planes.

X-RAYS: Plain radiographs and MRI were reviewed. She has some slight degenerative changes at L4-5 and L5-S1. She has some mild spinal stenosis with a disc herniation more prominent on the left at L4-5.

PLAN: We discussed with her that due to the lack of extensive physical therapy, we would like to try at least another four week course of physical therapy and if she continues to have significant severe low back pain and leg pain, we may discuss surgical intervention at her next meeting if that is so indicated. At the termination of our meeting, she asked about her status on disability. She says she can't sit. It appears that she can't work right now and she is going to continue to follow up with [REDACTED] in regards to treatment for this.

[REDACTED]
[REDACTED]
[REDACTED]

DO: [REDACTED] SEX: F
INSURANCE CO: ZZAETNA

Date of Service: 09/04/2008 Doctor: [REDACTED] O/V-FOLLOW UP
Entered on 09/05/2008 at 01:28 pm

M. [REDACTED] returns today. She has had three epidural steroid injections and physical therapy. She continues to complain of significant buttock and left leg pain, unresolved by the injections for any extended period of time.

PLAN: After a thorough discussion of the risks and benefits of surgical intervention, she would like to proceed with a lumbar laminectomy decompressive procedure with in situ fusion to see if this will help with her lower extremity pain. She may eventually require a larger surgical intervention if she is unresponsive to this. We will see her back for her pre-operative history and physical. All the risks and benefits of surgery were discussed with her, including heart attack, stroke, infection, neurologic injury, death, paralysis. We will proceed with a lumbar laminectomy decompressive procedure at L4-5 on the left.

This patient was evaluated by both [REDACTED] and [REDACTED], P.A.-C.

The opinions expressed herein are stated within a reasonable degree of medical certainty.

MHW/MD/vdb

cc: [REDACTED]
[REDACTED]



Patient Name: ██████████
Accession#: ██████████
Date of Birth: ██████████
Exam Date: 10/14/2008 9:28:00 AM
Ordering Physician: ██████████

Account: ██████████
Service: IPS

XR SPINE 1 VIEW

History: Laminectomy.

Findings: Single intraoperative view of the lumbar spine for localization level shows surgical instruments at L6 level.

Electronically signed by:

_____ D.A.B.R.

Legally authorized by: _____

Permanent Subcommittee on Investigations
EXHIBIT #8n

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

(Claimant)

Period of Disability and Disability Insurance
Benefits

(Wage Earner)

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

On October 13, 2006, the claimant filed an application for a period of disability and disability insurance benefits, alleging disability beginning November 1, 2004. This claim was denied and is now before the undersigned¹ **Administrative Law Judge, W. Howard O'Bryan, Jr.**, on a timely written request for hearing filed on June 25, 2007 (20 CFR 404.929 *et seq.*). The evidence of record supports ***a fully favorable decision; therefore no hearing has been held*** (20 CFR 404.948(a)). The claimant is represented by _____

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2009. Thus,

¹ Who may preside: 5 USC 556(b); Powers of the presiding officer: 5 USC 556(c); Special role of the Administrative Law Judge in Social Security: Heckler v. Campbell, 461 U.S. 458, 471, 103 S.Ct. 1952, 1959, 1 S.S.R.S. 3, 10, CCH ¶ 14,585 (1983); Dixon v. Heckler, 811 F.2d 506, 510, 16 S.S.R.S. 279, 283 (10th Cir. 1987); James v. Bowen, 793 F.2d 702, 704-705, 14 S.S.R.S. 87, 89-90, CCH ¶ 17,071 (5th Cir. 1986); Cannon v. Harris, 651 F.2d 513 (7th Cir. 1981); Coulter v. Weinberger, 527 F.2d 224 (3rd Cir. 1975) (Administrative Law Judge must develop full record where claimant not represented by counsel); But see, Kane v. Heckler, 731 F.2d 1216, 4 S.S.R.S. 340, CCH ¶ 15,324 (5th Cir. 1984); Dozier v. Heckler, 754 F.2d 274 (8th Cir. 1985); Jordan v. Heckler, 835 F.2d 1314, 20 S.S.R.S. 158, CCH ¶ 17,808 (10th Cir. 1987), (Administrative Law Judge must develop full record even if claimant represented by counsel); Social Security Ruling 71-23; Social Security Regulations 20 CFR §§ 404.944 and 416.1444, see also, 20 CFR 404.950, 404.951, 416.1450 and 416.1451; Social Security Act, §§ 305(b) and 1631(c)(1).¹

¹ 20 Code of Federal Regulations Ch. III (4-1-06 edition) section 404.948: Deciding a case without an oral hearing before an administrative law judge. (a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the Administrative Law Judge may issue a hearing decision without holding an oral hearing. ... 1

the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from November 1, 2004 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he has demonstrated the ability to engage in SGA (20 CFR 404.1574 and 404.1575). If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant meets the insured status requirements of the Social Security Act through December 31, 2009.
2. The claimant has not engaged in substantial gainful activity since November 1, 2004, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

Vocational Information

javascript:hideShowDataViewSection(%22JobsWorkedintheLast15years%22)

Jobs Worked in the Last 15 years

Job Title	Type of Business	From	To
1. <u>RETAI SALES</u>	STORES	1973	2004

See Next Page

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-InitialLevel%22)

Ticket/Program Information - Initial Level

Participate in Ticket program or
another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-ReconsiderationLevel%22)

Ticket/Program Information - Reconsideration Level

Participate in Ticket program or
another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-HearingLevel%22)

Ticket/Program Information - Hearing Level

Participate in Ticket program or
another program? No

javascript:hideShowDataViewSection(%22AdditionalRehabilitationInformation%22)

Additional Rehabilitation Information

Working now? No

Stopped working because: I WAS FIRED FROM MY JOB

Stopped working when: 11/01/2001

Alleged Impairments: Knee problems, hip c, mental problems

3. The claimant has the following severe combination of impairments:

Allegation(s)

javascript:hideShowDataViewSection(%22Impairments,LimitationsandPain-InitialLevel%22)

Impairments, Limitations and Pain - Initial Level

Alleged Impairments: Knee problems, hip c, mental problems

Limitations: I CAN NOT PHYSICALY STAND FOR LONG. I AM
DEPRESS,

Pain/Other Symptoms: Yes

Impairments First Bothered: 11/01/2004

Height: 6'

Weight: 265 lbs.

javascript:hideShowDataViewSection(%22EffectonWork-InitialLevel%22)

Effect on Work - Initial Level

Ever Worked: Yes

Working Now: No

When Stopped: 11/01/2001

Stopped Working Because: I WAS FIRED FROM MY JOB

Work After First Bothered: No

javascript:hideShowDataViewSection(%22Impairments,LimitationsandEffects-ReconsiderationLevel%22)

Impairments, Limitations and Effects - Reconsideration Level

Any Changes in Condition: Yes

Changes in Condition: Continuing knee and leg problems as well as back and leg complications.

Date Occurred: 10/08/2006

Any New Illnesses or Injuries: No

Any New Limitations: Yes

New Limitations: depression worsen

Date Occurred: 10/08/2006

How Condition Affects Ability to Housebound. No interest in anything. I am able to handle bills Care for Personal Needs: and finances.

How Daily Activities Changed: less active

Work Since Original Claim Filed: No

Submitting New Evidence: No

Reason Appeal Requested: I AM NO LONGER ABLE TO WORK AND HOLD A JOB.

javascript:hideShowDataViewSection(%22Impairments,LimitationsandEffects-HearingLevel%22)

Impairments, Limitations and Effects - Hearing Level

Any Changes in Condition: No

Any New Illnesses or Injuries: No

Any New Limitations: No

How Condition Affects Ability to Care for Personal Needs: i can barely function. im' becoming more house bound and reclusive. I'm slacking in number of personal needs, do not assoc with friends, stay to my self, extreme fatigue and pain.

How Daily Activities Changed: i cannot drive

Worked Since Filing For Reconsideration: No

Submitting New Evidence: No

Reason Appeal Requested: I CANNOT WORK.

(20 CFR 404.1520(c)).

The above combination of impairments causes significant limitation in the claimant's ability to perform basic work activities.

4. The severity of the claimant's affective (mood) disorders (2960), anxiety related disorders (3000), hepatitis C, disorders of back discogenic and degenerative (7240), knee and leg problems, obesity and hyperalimentation (2780), etc., etc., etc., meets the criteria of section(s) 12.04, 1.04A, 12.06, Social Security Ruling 02-01p, etc., etc., etc., of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).

The record shows the claimant is functional² below the sedentary level for any sustained, continual or regular activity³.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

Prior Claim Information

Prior Claim Filed: No

Observations

[javascript:hideShowDataViewSection\(%22InterviewInformation-InitialLevel%22\)](#)

Interview Information - Initial Level

Interview Conducted: Face-to-face with claimant

[javascript:hideShowDataViewSection\(%22ObservedClaimantDifficulties-InitialLevel%22\)](#)

Observed Claimant Difficulties - Initial Level

² Residual functional capacity is the claimant's maximum remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A "regular and continuing basis" means eight (8) hours a day, for five (5) days (i.e., forty (40) hours) a week or an equivalent work schedule (Social Security Ruling 96-8p). The claimant must have both the mental and physical abilities to perform sustained work activities. Since the evidence supports a finding that the claimant has had a substantial loss of ability to meet the demands of basic work related activities on a sustained basis, the unskilled, sedentary occupational base is significantly eroded and a finding of disability is justified under Social Security Ruling 96-9p. 22

³ Social Security Ruling 96-8p provides that a finding of disabled is appropriate whenever there is an inability to persist at work-like tasks for the full course of an 8-hour workday or 5-day workweek. Clearly, the claimant's medically determinable severe impairments preclude the claimant from engaging in substantial gainful activity on a regular and continuing basis. Social Security Ruling 96-9p stipulates that an individual who has the residual functional capacity for less than a full range of sedentary work should be considered disabled if their restrictions would significantly erode the occupational base for sedentary work. The claimant is markedly, functionally limited. Thus, a finding of disabled is warranted. Medical-Vocational Rule 201.00 (h) Appendix 2, Subpart P, Regulations No. 4 may be used as the framework for the decision. It directs a finding of disabled. Social Security Ruling 85-15 and Social Security Ruling 96-9p both stipulate that an individual must, on a sustained basis, be able to understand, remember and carry out simple instructions; make simple work-related decisions; respond appropriately to supervision, coworkers, usual work situations and to deal with changes in a routine work setting. A substantial loss of ability to meet any one of these basic work-related activities would severely limit the potential occupational base for all age groups and warrant a finding of disabled.

Hearing: No
Reading: No
Breathing: No
Understanding: No
Coherency: No
Concentrating: No
Talking: No
Answering: No
Sitting: No
Standing: No
Walking: No
Seeing: No
Using hand(s): No
Writing: No

Observations: I DID NOT NOTICE ANYTHING THAT COULD
CONTRIBUTE TO THIS CASE.

javascript:hideShowDataViewSection(%22InterviewInformation-ReconsiderationLevel%22)

Interview Information - Reconsideration Level

Interview Conducted: No contact with claimant

Education Information

javascript:hideShowDataViewSection(%22EducationInformation%22)

Education Information

Highest Education Level
Completed: 2 years of college
When Completed: 1990

javascript:hideShowDataViewSection(%22LanguageInformation%22)

Language Information

Speaks and Understands English: Yes
Reads English: Yes
Writes More Than Name in
English: Yes

Medications

javascript:hideShowDataViewSection(%22MedicationInformation-InitialLevel1of3-CITALPRAH%22)

Medication Information - Initial Level (1 of 3) - CITALPRAH

Name: CITALPRAH

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: DEPRESSION

Side Effects: NA

javascript:hideShowDataViewSection(%22MedicationInformation-InitialLevel2of3-HydrocodonewithAPAP%22)

Medication Information - Initial Level (2 of 3) - Hydrocodone with APAP

Name: Hydrocodone with APAP

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: PAIN

Side Effects: NA

javascript:hideShowDataViewSection(%22MedicationInformation-InitialLevel3of3-Ibuprofen%22)

Medication Information - Initial Level (3 of 3) - Ibuprofen

Name: Ibuprofen

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: PAIN

Side Effects: NA

javascript:hideShowDataViewSection(%22MedicationInformation-ReconsiderationLevel1of3-hydrocodone%22)

Medication Information - Reconsideration Level (1 of 3) - hydrocodone

Name: hydrocodone

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: pain

Side Effects: respiratory problems

javascript:hideShowDataViewSection(%22MedicationInformation-ReconsiderationLevel2of3-ibuprofin%22)

Medication Information - Reconsideration Level (2 of 3) - ibuprofen

Name: ibuprofen

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: inflammation and pain

Side Effects: fatigue

javascript:hideShowDataViewSection(%22MedicationInformation-ReconsiderationLevel3of3-triaminic%22)

Medication Information - Reconsideration Level (3 of 3) - Triaminic

Name: Triaminic

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: pain

Side Effects: none

javascript:hideShowDataViewSection(%22MedicationInformation-HearingLevel1of4-CITALPRAH%22)

Medication Information - Hearing Level (1 of 4) - CITALPRAH

Name: CITALPRAH

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: DEPRESION

Side Effects: NA

javascript:hideShowDataViewSection(%22MedicationInformation-HearingLevel2of4-hydrocodone%22)

Medication Information - Hearing Level (2 of 4) - hydrocodone

Name: hydrocodone

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: pain

Side Effects: respitory problems

javascript:hideShowDataViewSection(%22MedicationInformation-HearingLevel3of4-methacaroboarol%22)

Medication Information - Hearing Level (3 of 4) - methacaroboarol

Name: methacaroboarol

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: pain

Side Effects: drowsiness

javascript:hideShowDataViewSection(%22MedicationInformation-HearingLevel4of4-tramidol%22)

Medication Information - Hearing Level (4 of 4) - tramidol

Name: tramidol

Prescribed By: VETERANS ADMIN HOSPITAL

Reason: pain

Side Effects: drowsiness

Sources

javascript:hideShowDataViewSection(%22DisabledPersonsInformation-InitialLevel%22)

Disabled Person's Information - Initial Level

Alleged Impairments: Knee problems, hip c, mental problems

Limitations: I CAN NOT PHYSICALY STAND FOR LONG. I AM DEPRESS,

Alleged Onset Date: 11/01/2004

Filing Date: 10/13/2006

javascript:hideShowDataViewSection(%22DisabledPersonsInformation-ReconsiderationLevel%22)

Disabled Person's Information - Reconsideration Level

Any Changes in Condition: Yes

Changes in Condition: Continuing knee and leg problems as well as back and leg complications.

Date Occurred: 10/08/2006

Any New Illnesses or Injuries: No

Any New Limitations: Yes

New Limitations: depression worsen

Submitting New Evidence: No

Reason Appeal Requested: I AM NO LONGER ABLE TO WORK AND HOLD A JOB.

javascript:hideShowDataViewSection(%22DisabledPersonsInformation-HearingLevel%22)

Disabled Person's Information - Hearing Level

Any Changes in Condition: No

Any New Illnesses or Injuries: No

Any New Limitations: No

Submitting New Evidence: No

Reason Appeal Requested: I CANNOT WORK.

javascript:hideShowDataViewSection(%22VETERANSADMINHOSPITAL1of1-InitialLevel%22)

VETERANS ADMIN HOSPITAL (1 of 1) - Initial Level

Source Type: Hospital/Clinic

Source Name: VETERANS ADMIN HOSPITAL

Address: 921 NE 13TH
OKLAHOMA CITY, OK 73104

Outpatient First Visit: 2000

Outpatient Last Visit: 2006

Reason for Visits: ALL MY MEDICAL NEEDS

Treatment: AS NEEDED

Medications: Hydrocodone with APAP , Ibuprofen , CITALPRAH

javascript:hideShowDataViewSection(%22VETERANSADMINHOSPITAL1of1-HearingLevel%22)

VETERANS ADMIN HOSPITAL (1 of 1) - Hearing Level

Source Type: Hospital/Clinic

Source Name: VETERANS ADMIN HOSPITAL

Address: 921 NE 13TH

OKLAHOMA CITY, OK 73104

Outpatient First Visit: 3/2007

Outpatient Last Visit: 3/2007

Reason for Visits: all medical issues

Treatment: meds

Medications: CITALPRAH, hydrocodone, methacaroboardol, tramidol

Onset

javascript:hideShowDataViewSection(%22OnsetDates%22)

Onset Dates

Alleged: 11/01/2004

javascript:hideShowDataViewSection(%22ClaimInformation1of1-InitialLevel%22)

Claim Information (1 of 1) - Initial Level

Type: DIB

Number Holder SSN [REDACTED]

Number Holder Name [REDACTED]

First Insured: 10/01/2004

Last Insured: 12/31/2009

javascript:hideShowDataViewSection(%22ClaimInformation1of1-ReconsiderationLevel%22)

Claim Information (1 of 1) - Reconsideration Level

Type [REDACTED]

Number Holder SSN [REDACTED]

Number Holder Name [REDACTED]

javascript:hideShowDataViewSection(%22ClaimInformation1of1-HearingLevel%22)

Claim Information (1 of 1) - Hearing Level

Type [REDACTED]

Number Holder SSN [REDACTED]

Number Holder Name [REDACTED]

javascript:hideShowDataViewSection(%22ImpairmentsEffectOnWork%22)

Impairments Effect On Work

Impairments First Bothered: 11/01/2004

Work After Above Date: No

When Unable to Work: 11/01/2004

Ever Worked: Yes

Working Now: No

Stopped Working: 11/01/2001

Stopped Working Because: I WAS FIRED FROM MY JOB

Work After First Bothered: No

Reconsideration - Worked Since
You Originally Filed: No

Hearing - Worked Since You
Filed for Reconsideration: No

javascript:hideShowDataViewSection(%22MiscellaneousInformation-InitialLevel%22)

Miscellaneous Information - Initial Level

Closed Period: No

Various physicians, treating and non-treating, have written that the claimant suffered from various medical problems and that the claimant has significant work restrictions. While the finding that a person is "disabled" under the provisions of the Social Security Act is an issue reserved to the Commissioner⁴ (SSR 96-5p1), opinions from any medical source on issues reserved to the Commissioner must never be ignored. The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner. If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

The fact that the claimant's treating physician, after extensive examinations and treatment, has formed such opinion as to the claimant's ability to perform sustained work activity was precluded strongly suggests a significantly limited residual functional capacity. Further, considering the claimant's diagnoses and multitude of prescribed medications tried, the undersigned finds that treating physician's opinion is well support and is not inconsistent with the other substantial evidence in the case record; thus, it is afforded controlling weight (20 CFR 404.1527(d)(2) and SSR 96-2p).

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

⁴ Under 20 CFR 404.1527(e), some issues are not medical issues regarding the nature and severity of an individual's impairment(s) but are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability. The following are examples of such issues:

- Whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the listings;
- What an individual's RFC is;
- Whether an individual's RFC prevents him or her from doing past relevant work;
- How the vocational factors of age, education, and work experience apply; and
- Whether an individual is "disabled" under the Act.

The regulations provide that the final responsibility for deciding issues such as these is reserved to the Commissioner. 44

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

The Administrative Law Judge affords greater weight to the opinion of the examining (nontreating) source. This opinion is well supported by medically acceptable clinical and laboratory findings, and is consistent with the record when viewed in its entirety. The State agency consultants did not consider all of the claimant's impairments contained in the medical evidence of the record. The State agency consultants failed to consider the combined effect of all of the claimant's impairments as required by the regulations. The State agency did not adequately consider the entire record, including the statements of collateral sources. The State agency did not adequately consider the entire record, including the subjective complaints and other allegations of the claimant.

5. The claimant has been under a disability, as defined in the Social Security Act, from November 1, 2004 through the date of this decision (20 CFR 404.1520(d)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on October 13, 2006, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on November 1, 2004.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 12 months.

A determination to appoint a representative payee to manage payments in the claimant's interest is recommended.



W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

OCT 22 2007

Date

Health Summary

Printed On Oct 31, 2006

FINDINGS:

The liver measures 16.3 cm in length and demonstrates no focal parenchymal abnormality. The gallbladder is normal in size and wall thickness and demonstrates no pericholecystic fluid and no intraluminal echoes. The common bile duct is not dilated, measuring 4 mm in diameter. The kidneys measure in length 11.2 cm in the right and 11 cm on the left. Both kidneys demonstrate normal cortical thickness and echogenicity. The spleen measures 14 cm in length. No intraperitoneal free fluid is demonstrated.

Impression:

1. NO FOCAL HEPATIC ABNORMALITY IS DEMONSTRATED BY SONOGRAPHY. HOWEVER, ULTRASOUND IS RELATIVELY INSENSITIVE FOR DETECTION OF OCCULT HEPATIC MASSES COMPARED TO CT.
2. SPLENOMEGALY.

A/P: HCV GENO 2B ON WEEK 20 OF TREATMENT

1. Patient having some depression. Denies SI/HI. [REDACTED] to evaluate today.
2. Continue ribavirin 400mg bid, pegasys 180mcg/wk.
3. Last date of meds 1/6/05
4. RTC GI LIVER 1/13/05 W/ CBCXT, CMP, TSH, HCV QUAL.
5. Instructed pt to go to ER if SI/HI occurs.

Signed by: /es/ Pharm.D.
Clinical Pharmacy Specialist 12/16/2004 14:05

12/15/2004 11:13 Title: MHC BIOFEEDBACK
Length of Visit: 60 minutes
Arrived: On Time

Appearance: Alert, oriented x4, Neatly dressed, groomed, Cooperative, Cheerfull
SI/HI: Patient did not report any SI/HI Ideation.

Session: #6

Diagnosis: Anxiety NOS

Type of Session:
BIOFEEDBACK
OTHER

Temperature: Left
Sensor Placement: Left middle finger, distal pad.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

EXHIBIT #9b

Health Summary

Printed On Oct 31, 2006

Pulse

Sensor Placement: Left index finger, distal pad.

Skin Conductance

Sensor Placement: Left thenar eminence and hypothenar eminence.

Respiration

Sensor Placement: Chest band across the xyphoid process.

TESTING RESULTS:

Temperature L :Beginning temperature was approximately 91.9 degrees F, ending temperature was approximately 92.75 degrees F. A peak temperature of approximately 92.85 degrees F was achieved approximately 16 minutes into the session. Total temperature change was less than 1 degree. [REDACTED] did not achieve the target temperature of 93 degrees F.

Respiration: Beginning raw respiration was approximately 3040, ending respiration was approximately 3010 with a peak recorded at approximately 3190 and the lowest level at approximately 2890. Beginning respiration rate was approximately 7.5 breaths-per-minute (bpm), ending respiration rate was approximately 15 bpm. A peak rate was recorded at approximately 18 bpm and the slowest rate recorded was approximately 1.9 bpm. The slowest rate was due to [REDACTED] holding his breath during some of the PMR exercises. Average bpm rate appears to be approximately 13 bpm. Skin Conductance: Beginning level was approximately 9.4 micromhos, ending level 5 micromhos. A peak level was recorded at approximately 12.8 micromhos.

Pulse: Beginning pulse amplitude was approximately 1165, ending pulse amplitude was approximately 1065 with a peak level recorded at approximately 1190 and the lowest recorded rate was approximately 930. Real-time imagery shows peak-to-peak pulse amplitude between 400-450 most of the session.

Testing session length: 19 min.

Number of epochs: 95

Testing today consisted of a 2-minute pre-testing baseline followed by approximately 15 minutes of Progressive Muscle Relaxation (PMR) exercises followed by a 2-minute post-testing baseline.

Overall Significance:

Upon arrival, [REDACTED] retold his story of losing his job about 5 weeks ago and how much struggle he has been having over this. He is extremely anxious over this because of it's cyclic nature and for what he was terminated over. As of this time, he is drawing unemployment and he has enough money saved up to get by on.

[REDACTED] was not able to raise his temperature by a full degree today but his

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Health Summary

Printed On Oct 31, 2006

beginning temperature was over 91 degrees to start with. He was able to reduce his skin conductance by nearly 50% but it is still very high since target level is less than 1 and [REDACTED] ended with a 5. Peak-to-peak pulse amplitude was very good today usually in the range of 450-500 per real-time imagery. All recorded parameters are highly suggestive of an individual in a very relaxed state and low anxiety. After today's session, I asked [REDACTED] how he felt and he said "Great."

Plan: [REDACTED] is to continue PMR exercises a minimum of 3 times daily and include a slowed breathing technique with them. Breathing exercises should be kept to a maximum of 5 minutes per session to preclude becoming overly tired. These exercises should be done in conjunction with daily routines to help make them become a habit easier. [REDACTED] was also given a copy of a Guided Imagery audio cassette that he can listen to whenever he feels he is getting stressed. RTC 1 week.

RTC: Dec 22, 2004@09:00

Signed by: /es/ [REDACTED], M. Ed.
PSYCHOLOGY TECHNICIAN 12/15/2004 11:45

Receipt Acknowledged by: /es/ [REDACTED] PhD
PSYCHOLOGIST, ADMINISTRATIVE 12/16/2004 11:42
DIRECTOR AMHC

Digital Pager: 62/504

12/09/2004 16:57 Title: PC PSYCHOLOGY
HCV SUPPORT GROUP NOTE
12/09/04
1000 - 1130

Today's group focused on stress/anxiety management. Reviewed various relaxation techniques and discussed ways members cope with stress/anxiety. Discussed the role of cognitions mediating the relationship between our experiences and our emotions. Reviewed the importance of monitoring and challenging our automatic thoughts.

Patient reported that he has experienced increased distress during past week. He suggested that it was related to him losing his job several weeks ago. Discussed his change in activity level and routine as one contributor to his distress. Patient also stated that he has not been using relaxation techniques that have been helpful in the past. Discussed increasing his behavioral activation and utilizing stress management techniques.

Affect and mood WNL. Good participation in group. No SI or HI indicated.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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[REDACTED]

[REDACTED]

Progress Note

Printed On Oct 31, 2006

Will generate Voc. Rehab consult.

Patient is not judged to be dangerous to himself or others at this time.

/es/ [REDACTED]
Post Doctoral Fellow
Signed: 01/07/2005 08:00

/es/ Ph.D.
DIRECTOR, HEALTH PSYCHOLOGY CLINIC
Cosigned: 01/11/2005 16:14

TITLE: MHC Biofeedback
DATE OF NOTE: JAN 05, 2005@13:01 ENTRY DATE: JAN 05, 2005@13:01:40
AUTHOR: EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Length of Visit: 60 minutes
Arrived: On Time

Appearance: Alert, oriented x4, Neatly dressed, groomed, Cooperative,
Cheerfull, Calm
SI/HI: Patient did not report any SI/HI Ideation.

Session:

Diagnosis: Anxiety NOS

Type of Session:
BIOFEEDBACK
OTHER: Review

All [REDACTED] wanted to do today was talk. We reviewed the different relaxation techniques he has been taught and he stated that he feels comfortable with them.

He stated that he has been having difficulties with simply not wanting to do anything and nothing even interested him anymore. He will get his last Interferon injection this week and he is hoping that after that injection wears off that he will be able to persue an interest. He is still unemployed but has been in contact with his former employer and may be involved in an investigation of his former supervisor. He stated that he can't even get the energy to apply for a job right now.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

EXHIBIT #9c

Progress Note

Printed On Oct 31, 2006

██████████ has started going to the YMCA and swimming laps twice a week now. "I feel good but it wears me out quite easily." Also, his sleeping habits are not providing him with the energy he feels he needs and he does not wake up refreshed. He is not sure if it is a side effect of the Interferon or not.

We talked about his goals, both short and long range. He has not taken a look at them since he initially wrote them down. We talked about the possibility of taking a class either at the college, vo-tech or community center. Nothing discussed appealed to ██████████. We talked about the difficulty with getting somewhere if you never start and that almost any start in any direction is better than no start at all. I mentioned the possibility of a time management course or self improvement self-help book. ██████████ stated that as an adolescent, he and his family had been in Europe and he had learned to speak a foreign language that he can no longer converse fluently in and there may be a possibility of taking a class or self-study.

Plan: ██████████ is to continue with his Progressive Muscle Relaxation, Breathing Techniques and Visual Imagery as often as he wishes for the next two weeks. He is to also look at his short term and long term goals and select one from each that he feels he can motivate himself with and outline what it will take to reach those goals. RTC 1 week.

RTC: Jan 12, 2005@09:00

/es/ M. Ed.
PSYCHOLOGY TECHNICIAN
Signed: 01/05/2005 13:18

Receipt Acknowledged By:
01/11/2005 15:17 /es/ PhD
PSYCHOLOGIST, ADMINISTRATIVE DIRECTOR AMHC

TITLE: PC PSYCHOLOGY
DATE OF NOTE: DEC 23, 2004@14:24 ENTRY DATE: DEC 23, 2004@14:24:21
AUTHOR: / EXP COSIGNER: ?
URGENCY: STATUS: COMPLETED

HCV SUPPORT GROUP NOTE
12/23/04
1000 - 1130

Today's group focused on:

- 1) Patients reflecting on what they had gained or learned while on treatment.
- 2) Patients' plans for the holiday.
- 3) Majority of group focused on sleep management. Reviewed and discussed sleep hygiene. Patients also given written materials on sleep management to

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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██████████
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████████████████████

Health Summary

Printed On Oct 31, 2006

hydrtherapy and non weight bearing exercises.referred to PT for assistive device and possible cortisone intraarticular inj in Arthritis clinic.
3Mood disorder.On citalopram 10 mg qd,stable no si/hi.
F/U visit in one year.

Signed by: /es/ M.D.
Primary Care Physician 02/09/2005 14:38

02/09/2005 14:45 Title: ADDENDUM Dated: 02/09/2005 14:25
Ref: PC GENERAL NOTE

Today's Vitals
BP 122/75
HR 78
Wt 255.6 Lbs

Signed by: /es/ M.D.
Primary Care Physician 02/09/2005 14:45

02/09/2005 14:07 Title: MHC BIOFEEDBACK
Length of Visit: 60 minutes
Arrived: On Time

Appearance: Alert, oriented x4, Neatly dressed, groomed, Cooperative, Calm
SI/HI: Patient did not report any SI/HI Ideation.

Session: #7

Diagnosis: Anxiety NOS

Type of Session:
BIOFEEDBACK
OTHER

S: [REDACTED] arrived today very upbeat and quite talkative. We talked about his goals and plans on how to accomplish them. He is quite goal oriented but needs to make definite plans.

He has completed his Interferon injections and stated that he is feeling better but did not realize how much impact the injections were having on his moods and energy level. He stated that he is going to the YMCA three times weekly and to the VA Health Wing twice a week. He also said that there was a program at the VA Health Wing on Fridays that he wanted to try.

[REDACTED] talked a long time regarding his goals, things he has done in the past and mistakes he feels that he has made. We discussed the problems with playing the "Would have, Could have, Should have done" game and "What if"

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MC

EXHIBIT #9d

Health Summary

Printed On Oct 31, 2006.

scenarios. I encouraged him not to second guess himself but remember that the decisions he has made were done with a limited amount of information and he did the best he could at the moment. I reminded him that if he does not make a decision regarding a goal, he accomplished nothing toward that goal. I urged him to find a "burning desire" for his motivation and keep it in front of him at all times.

Lastly, we talked about the last time that [REDACTED] had any fun. He stated that it has been a long time and that he has given up a lot of the things he used to do that he enjoyed. I encouraged him to set aside some time each week for fun.

He said that his energy level wanes in the early afternoons but is fine in the mornings. His mornings are quite full every day and he is slowly trying to expand into the afternoons. He is concerned that if he goes on a job interview in the afternoon that he will not be up to his full potential and not make a favorable first impression. We discussed the possibilities of moving the interviews to the morning or reducing his morning activities for the day of the interview to preserve more energy for later on in the day.

A: [REDACTED] is a well developed, well nourished 50 y/o WM in NAD. He is alert and oriented x3. Eye contact was excellent throughout the session, thoughts were goal directed. Speech patterns were good and he was able to express himself without difficulty. He has completed all of the relaxation exercises I teach and has demonstrated that he is capable of using them with good results. He has identified both short term and long term goals but is having difficulty making decisions on an action plan to satisfy those plans.

Plan: [REDACTED] is to practice all of his relaxation techniques a minimum of 3 times daily for the next 3 months. He is to include them with his daily routines to help him remember to do them and increase the likelihood of making them habits. He is to continue working with Service Officers for his disability and continue his job searches. He has stated that he has enough money to last him for three months but I reminded him how quickly the time passes and how long it takes to get paid once employed. He is to develop some immediate goals and steps to accomplish them and try to find something to use for motivation toward fulfilling those goals.

RTC: May 11, 2005@10:00

Signed by: /es/ [REDACTED], M. Ed.
PSYCHOLOGY TECHNICIAN 02/09/2005 15:35

Receipt Acknowledged by: /es/ [REDACTED], PhD
PSYCHOLOGIST, ADMINISTRATIVE 02/14/2005 08:29
DIRECTOR AMHC

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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[REDACTED]

[REDACTED]

Health Summary

Printed On Oct 31, 2006

Digital Pager: 62 076

04/14/2005 15:49 Title: PC PSYCHOLOGY
HCV SUPPORT GROUP NOTE
04/14/05
1000 - 1130

Group Facilitator:

[REDACTED] Psychology Fellow
[REDACTED] Psychology Intern

Genotype: 2
Length of TX: >3 months out

Today's group focused on:
Review of confidentiality. [REDACTED] presented information about Therapeutic Recreation to veterans. Group appeared interested in activities offered, and several members commented about how they found Therapeutic Recreation useful. Remainder of group focused on discussing how various members are dealing with HCV's impact on physical health, psychological health, and relationships. Members were encouraged to remain active and to explore alternative activities.

Affect and mood WNL. Limited participation in today's group due to needs of other group members. No suicidal or homicidal ideation were indicated.

[REDACTED] was supportive of other group members facing crises. He shared that he has found exercising in the VA's health wing very beneficial. Reports that he continues to exercise and to spend time volunteering.

DX: HCV

Depression due to general medical condition (HCV)

Plan:

Return to group in one week, 04/21/05.

Patient is not judged to be dangerous to himself or others at this time.

Signed by: /es/ [REDACTED]
Psychology Intern 04/14/2005 15:54

Cosigned by: /es/ [REDACTED] Ph.D.
Psychologist 04/15/2005 11:04

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

[REDACTED]

[REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #9e

Progress Note

Printed On Oct 31, 2006

AUTHOR:
URGENCY:

EXP COSIGNER:
STATUS: COMPLETED

HCV SUPPORT GROUP NOTE
04/21/05
1000 - 1130

Group Facilitator:
 , Ph.D., Psychology Fellow

Genotype: 2
Length of TX: 13 weeks out

Today's group focused on:

- 1) Patient's checked in and reported on how they have been coping.
- 2) Discussed how treatment can directly and indirectly affect relationships. Several group members shared how the treatment process has affected their relationship with their spouse. Discussed the need for patients to work on communicating their needs and giving feedback to family and support system.
- 3) Discussed patient's use of a "higher power" (faith, religion, spiritual) in coping with difficulties associated with HCV treatment.

Affect and mood WNL. Moderate participation in today's group. No suicidal or homicidal ideation was indicated. Supportive of other group members.

██████ reported that he has continued to increase his level of activity. He suggested that he still is not able to concentrate and sustain focus like he would like. He continues to look for employment and participate in upward bound program.

DX: HCV
Depression due to general medical condition (HCV)

Plan:
Return to group in one week, 04/28/05.

Patient is not judged to be dangerous to himself or others at this time.

/es/ , Ph.D.
Post Doctoral Fellow
Signed: 04/21/2005 15:48

/es/ , Ph.D.
DIRECTOR, HEALTH PSYCHOLOGY CLINIC
Cosigned: 04/25/2005 09:02

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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Health Summary

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since completing his Inteferon treatments.

Temperature change was not as significant as it should have been but he is under some stress as he is job hunting. He did not reach his target of 93 degrees F. Heart rate was very steady throughout the session, respiration was average and he was able to decrease his rate to approximately 8 bpm for several minutes today. Peak-to-peak pulse amplitude decreased over the entire session. [REDACTED] stated that he was distracted from the music by sounds from within the room and sounds from the adjacent room and hallway.

Because of the high levels of pulse amplitude, peak-to-peak pulse amplitude, blood volume, steady heart rate and decrease in skin conductance, [REDACTED] displays the ability to relax and reduce his overall anxiety level significantly while doing his relaxation techniques.

Plan: [REDACTED] is to continue to practice all of his relaxation methods a minimum of 3 times daily. He needs to include them with his daily activities to help make them a habit. He understands the need for practice. RTC PRN

RTC: Will call if needed.

Signed by: /es/ [REDACTED], M. Ed.
PSYCHOLOGY TECHNICIAN 05/11/2005 14:52

Receipt Acknowledged by: /es/ [REDACTED], PhD
PSYCHOLOGIST, ADMINISTRATIVE 05/19/2005 15:18
DIRECTOR AMHC

Digital Pager: 62/504

05/05/2005 13:46 Title: PC PSYCHOLOGY
HCV SUPPORT GROUP NOTE
05/05/05
1000 - 1130

Group Facilitator:
[REDACTED] Ph.D., Psychology Fellow
[REDACTED], M.A., Psychology Intern

Genotype: 2
Length of TX: 15 weeks out

Today's group focused on:
Brief check in regarding patients' past week, status of their treatment, and how they are coping with treatment. There was much discussion on how treatment affects one's patience and irritability, thus affecting interactions with family and others. Discussed the need to remain cognizant of how treatment is affects

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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Permanent Subcommittee on Investigations

EXHIBIT #9g

Health Summary

Printed On Oct 31, 2006

one and discuss this with family and others. Conducted guided imagery exercise in session.

Affect and mood WNL. Moderate participation in today's group. No suicidal or homicidal ideation was indicated. Supportive of other group members.

██████████ reported that during the past week he experienced two occasions where he felt somewhat depressed. He stated that he was able to challenge his negative thoughts and reframe his situation, thus elevating his mood and continuing to move forward. He reported that he continues to stay very active and revealed that he has applied for employment at the VA.

DX: HCV

Depression due to general medical condition (HCV) - improved

Plan:

Return to group in one week, 05/05/05.

Patient is not judged to be dangerous to himself or others at this time.

Signed by: /es/ , Ph.D.
Post Doctoral Fellow 05/05/2005 13:59

Digital Pager: 62319

Cosigned by: /es/ , Ph.D.
DIRECTOR, HEALTH PSYCHOLOGY CLINIC 05/13/2005 16:00

Digital Pager: 62 076

04/28/2005 14:03 Title: PC PSYCHOLOGY

HCV SUPPORT GROUP NOTE

04/27/05

1000 - 1130

Group Facilitator:

██████████, Ph.D., Psychology Fellow

██████████, M.A., Psychology Intern

Genotype: 2

Length of TX: 14 weeks out

Today's group focused on:

Group was open to allow patients to bring spouses, family members, and other supportive people in their lives. Discussion focused around the impact of HCV

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██████████
██████████
██████████

██

Progress Note

Printed On Oct 31, 2006

Comment: DOES NOT TAKE SHOT

Okl-Pneumovax:

Patient declined pneumococcal vaccine at this time.

Comment: UNDER AGE RANGE

Okl-Tobacco Use Screen:

Patient was screened for tobacco use at this encounter.

Patient reports no tobacco use during the past year (12 months).

Continued cessation encouraged.

/es/ LPN

LPN

Signed: 05/17/2005 10:45

TITLE: PC PSYCHOLOGY

DATE OF NOTE: MAY 12, 2005@16:58

ENTRY DATE: MAY 12, 2005@16:58:49

AUTHOR: ?

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

HCV SUPPORT GROUP NOTE

05/12/05

1000 - 1130

Group Facilitator:

[REDACTED], Ph.D., Psychology Fellow

[REDACTED], M.A., Psychology Intern

Genotype: 2

Length of TX: 16 weeks out

Today's group focused on:

[REDACTED] from Vocational Rehab spoke to the group about opportunities available to veterans. Discussed the ways in which HCV treatment may limit veterans; they may need to seek out new employment opportunities. Group members also checked in, discussing physical side effects and the impact of HCV on relationships. The group also welcomed a new member.

Affect and mood WNL. Moderate participation in today's group. No suicidal or homicidal ideation was indicated. Supportive of other group members.

Pt states that he continues to volunteer at the VA, participate in the Upward Bound program, and to challenge his negative thoughts. He was active in giving advice to a new group member. He believes that HCV treatment is still impacting his life 4 months post-treatment.

DX: HCV

Depression due to general medical condition (HCV) - improved

PATIENT NAME AND ADDRESS (Mechanical Imprinting, If available)

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EXHIBIT #9h

Progress Note

Printed On Oct 31, 2006

Plan:
Return to group in one week, 05/19/05.

Patient is not judged to be dangerous to himself or others at this time.

/es/ I
Psychology Intern
Signed: 05/12/2005 17:00

/es/ , Ph.D.
Psychologist
Cosigned: 05/13/2005 09:01

TITLE: MHC Biofeedback
DATE OF NOTE: MAY 11, 2005@14:13 ENTRY DATE: MAY 11, 2005@14:13:37
AUTHOR: I EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Length of Visit: 50 minutes
Arrived: On Time

Appearance: Alert, oriented x4, Neatly dressed, groomed, Cooperative, Calm
SI/HI: Patient did not report any SI/HI Ideation.

Session: #10

Diagnosis: Anxiety NOS

Type of Session:
BIOFEEDBACK
OTHER: Native American Indian Flute music

Temperature: Left
Sensor Placement: Left middle finger, distal pad

Pulse
Sensor Placement: Left index finger, distal pad

Skin Conductance
Sensor Placement: Left thenar eminence and hypothenar eminence

Respiration
Sensor Placement: Chest band across the xiphoid process

TESTING RESULTS:
Temperature L :Beginning temperature was approximately 89.9 degrees F, ending

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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[REDACTED]

[REDACTED]

Health Summary

Printed On Oct 31, 2006

05/19/2005 13:37 Title: PC PSYCHOLOGY

HCV SUPPORT GROUP NOTE

05/19/05

1000 - 1130

Group Facilitator:

[REDACTED], Ph.D., Psychology Fellow

[REDACTED] M.A., Psychology Intern

Genotype: 2

Length of TX: 17 weeks out

Today's group focused on:

Discussing physical and emotional effects of HCV treatment. Group members "checked in" with one another and offered support. Discussed HCV treatment as an opportunity to make positive changes in one's life. Discussed the importance of continuing to engage in pleasurable and productive activities, even when activity level must be limited. Began discussion of stress management techniques. Group appears to have bonded and members are checking on one another.

Affect and mood WNL. Moderate participation in today's group. No suicidal or homicidal ideation was indicated. Supportive of other group members.

Pt states that he has gotten much of his strength & energy back following treatment, although he still struggles with lack of energy from time to time. Pt continues to volunteer at the VA. He was supportive of other group members today, offering advice and hope regarding the end of treatment. Brought fruit and vegetable snacks with him and ate those throughout group. [REDACTED] volunteered to call group members this week to remind them of the group's new meeting room.

DX: HCV

Depression due to general medical condition (HCV) - improved

Plan:

Return to group in one week, 05/26/05.

Patient is not judged to be dangerous to himself or others at this time.

Signed by: /es/
Psychology Intern 05/19/2005 14:20

Cosigned by: /es/ [REDACTED], Ph.D.
Psychologist 05/20/2005 13:36

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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EXHIBIT #9i

Progress Note

Printed On Oct 31, 2006

/es/ _____, Ph.D.
Psychologist
Cosigned: 06/17/2005 14:04

Receipt Acknowledged By:
06/17/2005 15:24 /es/ _____, Ph.D.
Post Doctoral Fellow

TITLE: PC PSYCHOLOGY
DATE OF NOTE: JUN 09, 2005@14:55 ENTRY DATE: JUN 09, 2005@14:56:02
AUTHOR: EXP COSIGNER:
URGENCY: STATUS: COMPLETED

V SUPPORT GROUP NOTE
06/09/05
1000 - 1130

Group Facilitator:
_____, Ph.D., Psychology Fellow
_____, M.A., Psychology Intern

Genotype: 2
Length of TX: 20 weeks out

Today's group format was open, allowing patients to discuss difficulties they have been experiencing as well as treatment accomplishments and successes. The group members were quite verbal in sharing their experiences. Much discussion focused around one group member's struggles during the past week and her decision about whether or not to continue treatment.

Affect and mood WNL. Moderate participation in today's group. _____ reports that he has been feeling good and has made progress on his home projects. No suicidal or homicidal ideation was indicated. Tried to be supportive of group members in distress; however, gave a good deal of advice during today's group.

DX: HCV
Depression due to general medical condition (HCV) - improved

Plan:
Return to group in one week, 6/16/05.

Patient is not judged to be dangerous to himself or others at this time.

/es/

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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EXHIBIT #9j

Progress Note

Printed On Oct 31, 2006

CHIEF, ORTHOTIC LAB
Cosigned: 06/23/2005 08:20

TITLE: PC PSYCHOLOGY
DATE OF NOTE: JUN 16, 2005@11:58 ENTRY DATE: JUN 16, 2005@11:59:11
AUTHOR: EXP COSIGNER:
URGENCY: STATUS: COMPLETED

HCV SUPPORT GROUP NOTE
06/16/05
1000 - 1130

Group Facilitator:
M.A., Psychology Intern

Genotype: 2
Length of TX: 21 weeks out

Content of Group:

Discussed confidentiality and welcomed a new group member. Members "checked in" regarding their experiences coping with HCV and HCV treatment. Spent some time discussing communication in relationships and common gender differences in communication. Group members were very verbal during today's discussion. Next week's group is open for members to include supportive friends and family members.

Bright affect with upbeat mood. Moderate participation in today's group. [REDACTED] reports that he continues to volunteer 25 hrs per week, but he is too tired to look for a job. Supportive of other group members. No suicidal or homicidal ideation was indicated. [REDACTED] volunteered to call an absent group member to remind him of next week's open group.

DX: HCV
Depression due to general medical condition (HCV) - improved

Plan:
Return to group in one week, 6/23/05.

Patient is not judged to be dangerous to himself or others at this time.

/es/
Psychology Intern
Signed: 06/16/2005 12:09

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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EXHIBIT #9k

Progress Note

Printed On Oct 31, 2006

Adequate lighting is available, Standing up slowly

Disposition Urgent Care -- LSU

/es/ RN
STAFF NURSE
Signed: 06/25/2005 19:56

06/25/2005 ADDENDUM STATUS: COMPLETED
2053 TORADOL 30 MG GIVEN IM IN THE RIGHT DELTOID AS ORDERED BY DR. VINCENT.

/es/ RN
RN
Signed: 06/25/2005 20:56

TITLE: PC PSYCHOLOGY
DATE OF NOTE: JUN 23, 2005@14:32 ENTRY DATE: JUN 23, 2005@14:32:22
AUTHOR: EXP COSIGNER:
URGENCY: STATUS: COMPLETED

HCV SUPPORT GROUP NOTE
06/23/05
1000 - 1130

Group Facilitator:
Ph.D., Psychology Fellow
M.A., Psychology Intern

Genotype: 2
Length of TX: 22 weeks out

Content of Group:
Today's group format was open for members to bring family/friends who support them during treatment. Members "checked in" regarding their own progress and introduced family members. Discussed relationship issues. Also discussed the ways in which not being able to work can affect self-esteem, redefine roles in relationships, and can contribute to emotional distress. Group members discussed the benefits of coming to group and they were encouraged to seek social support as they go through treatment.

Bright affect with upbeat mood. Moderate participation in today's group. continues to complain of fatigue. It was pointed out to him that his schedule is now quite busy and this may account for his fatigue. Supportive of other group members. No suicidal or homicidal ideation was indicated.

DX: HCV

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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EXHIBIT #91

Health Summary

Printed On Oct 31, 2006

Signed by: /es/ [redacted], Ph.D.
Post Doctoral Fellow 07/25/2005 18:32

Digital Pager: 62319

Cosigned by: /es/ [redacted], Ph.D.
DIRECTOR, HEALTH PSYCHOLOGY CLINIC 07/26/2005 11:14

Digital Pager: 62 076

07/19/2005 11:45 Title: PC GENERAL NOTE
Pt comes as walk in with pruritic rash arms for few days likely starting after exposure to out door plants.O/E afebrile,VSS,lungs clear,heart RRR,skin show intense erythema flexure surfaces of upper and forearms with slight blistering and vesicles,no apparent signs of infection.Imp Contact Dermatitis.Plan: Start Methylprednisolone dose pack,Hydroxyzine tabs and Hydrocortisone topical application.

Signed by: /es/ [redacted], M.D.
Primary Care Physician 07/19/2005 11:49

07/14/2005 10:45 Title: PC PSYCHOLOGY
HCV SUPPORT GROUP NOTE
07/14/05
1000 - 1130

Group Facilitator:
[redacted], Ph.D., Psychology Fellow

Genotype: 2
Length of TX: 6 months out

Content of Group:
During today's group there was much discussion and questions regarding life after HCV treatment. Several of the members have just finished treatment and had questions regarding how they will feel and chances of HCV relapse. Patients who have completed treatment were encouraged to continue attending group while they make this transition. Discussed how patients have made a significant investment in their health and future and encouraged them to continue making positive health choices: abstain from alcohol and drugs; tobacco cessation; proper diet and exercise; etc.

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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Permanent Subcommittee on Investigations

EXHIBIT #9m

Progress Note

Printed On Oct 31, 2006

FOR X-RAYS.

/es/

RN

Signed: 08/13/2005 19:21

TITLE: LIVER CLINIC TELEPHONE NOT

DATE OF NOTE: AUG 11, 2005@17:00

ENTRY DATE: AUG 11, 2005@17:00:22

AUTHOR:

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

PATIENT HAD LAB DRAWN TO CHECK HEP C VIRAL LOAD 6 MONTH AFTER TREATMENT. LAB DRAWN 7/14/05. CALLED HOUSTON VA. RESULTS FAXED WHICH SHOWED "NO HCV RNA DETECTED." NOTIFIED PATIENT OF RESULTS. KEEP GI LIVER FELLOW APPT 8/18. PT VERBALIZED UNDERSTANDING OF PLAN OF CARE.

/es/ Pharm.D.

Clinical Pharmacy Specialist

Signed: 08/11/2005 17:02

TITLE: PC PSYCHOLOGY

DATE OF NOTE: AUG 11, 2005@12:36

ENTRY DATE: AUG 11, 2005@12:36:26

AUTHOR:

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

HCV SUPPORT GROUP NOTE

08/11/05

1000 - 1115

Group Facilitator:

Ph.D., Psychology Fellow

MS, Psychology Intern

Genotype: 2a

Length of TX: 29 weeks out

Content of Group:

Patient's checked in and reported on the status of their treatment and general coping. Today patient's completed a pen and paper CDC Hepatitis Knowledge Assessment. After completion each question was reviewed and discussed. Discussed the importance of being knowledgeable about Hepatitis and how this directly relates to treatment as well as being able to talk with others about HCV status.

reported that he is doing well and discussed his physical activity as

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

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Permanent Subcommittee on Investigations

EXHIBIT #9n

Progress Note

Printed On Oct 31, 2006

well as active participation in VA programs such as volunteering and Up Ward Bound program.

Bright affect with upbeat mood. Moderate participation in today's group. Supportive of other group members. No suicidal or homicidal ideation was indicated.

DX: HCV
Depression - stable

Plan:
Return to group in one week, 08/18/05.

Patient is not judged to be dangerous to himself or others at this time.

/es/ , Ph.D.
Post Doctoral Fellow
Signed: 08/11/2005 12:40

/es/ Ph.D.
DIRECTOR, HEALTH PSYCHOLOGY CLINIC
Cosigned: 08/16/2005 10:11

TITLE: PC PSYCHOLOGY
DATE OF NOTE: AUG 04, 2005@12:26
AUTHOR:
URGENCY:
ENTRY DATE: AUG 04, 2005@12:26:31
EXP COSIGNER:
STATUS: COMPLETED

HCV SUPPORT GROUP NOTE
08/04/05
1000 - 1115

Group Facilitator:
Ph.D., Psychology Fellow
MS, Psychology Intern

Genotype: 2a
Length of TX: 28 weeks out

Content of Group:
Today had new group member as well as addition of [redacted] as co group facilitator. Therefore each member introduced themselves and shared their treatment history and current progress. Majority of group was spent discussing new members adjustment to treatment and current stressors. Group discussion

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

[redacted]
[redacted]
[redacted]

[redacted]

Consult Request

Printed On Oct 31, 2006

Inter-facility Information

This is not an inter-facility consult request.

Status: COMPLETE
Last Action: COMPLETE/UPDATE

Facility

Activity	Date/Time/Zone	Responsible Person	Entered By
CPRS RELEASED ORDER	08/24/05 14:54	[REDACTED]	[REDACTED]
PRINTED TO NURS PRT-10 LASER	08/24/05 14:54	[REDACTED]	[REDACTED]
COMPLETE/UPDATE Note# 6588192	08/29/05 10:49	[REDACTED]	[REDACTED]

Note: TIME ZONE is local if not indicated

TITLE: THERAPEUTIC RECREATION CONSULT

DATE OF NOTE: AUG 29, 2005@10:39 ENTRY DATE: AUG 29, 2005@10:39:32

AUTHOR:

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

INITIAL EVALUATION

PART I: PERSONAL INFORMATION

1. DX: Mood Disorder
2. AGE: 50
3. MEDICAL HX: Hep C, Depression, bad knees and left ankle
4. OCCUPATION: [REDACTED]
5. RESIDENCE: [REDACTED]
6. LIVING ARRANGEMENTS: lives in OKC

PART II: LEISURE HISTORY:

1. PREVIOUS LEISURE INTERESTS: painting, sketching, making things, reading, exercising and carving
2. CURRENT LEISURE INTERESTS: working with Upward Bound, exercise, work on the house, movies, reading, computers, volunteering and water aerobics
3. COMMUNITY INVOLVMENT: gets out daily

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

EXHIBIT #90

Consult Request

Printed On Oct 31, 2006

4. SOCIAL SUPPORTS: friends and people at the VA

5. PERCEIVED BARRIERS: health

PART III: ASSESSMENT:

1. LEISURE STRENGTHS: Veteran reports several previous and current leisure interests and states he has a good social support system.

2. LEISURE WEAKNESSES: Veteran reports problems with depression.

3. PATIENT GOALS: "join the stick class"

PART IV: TREATMENT PLAN

Veteran has been actively involved in the exercise clinic and would now like to expand his involvement with this clinic through the stick class.

Veteran will attend group Tuesday and Friday 0800-1000.

Veteran will engage in the stick making process and complete walking stick.

Veteran will actively participate in social interaction with peers at least three times each session.

/es/ CTRS
THERAPEUTIC RECREATION SPECIALIST
Signed: 08/29/2005 10:49

===== END =====

Current PC Provider:
Current PC Team: ORANGE TEAM
Current Pat. Status: Outpatient
Primary Eligibility: SERVICE CONNECTED 50% to 100%

Order Information
To Service: AUDIOLOGY CONSULT
From Service: ORTHOTICS LAB (HENDERSON) 1B100
Requesting Provider:
Service is to be rendered on an OUTPATIENT basis
Place: Consultant's choice
Urgency: Routine
Orderable Item: AUDIOLOGY CONSULT
Consult: Consult Request

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

[REDACTED]

[REDACTED]

Consult Request

Printed On Oct 31, 2006

Inter-facility Information

This is not an inter-facility consult request.

Status: COMPLETE
Last Action: COMPLETE/UPDATE

Facility

Activity	Date/Time/Zone	Responsible Person	Entered By
CPRS RELEASED ORDER	08/17/05 16:01		
PRINTED TO REHAB PRT-04	08/17/05 16:01		
SCHEDULED	08/22/05 10:55		
veteran has appt. on 9-2-05			

COMPLETE/UPDATE 09/02/05 15:33
Note# 6613940

Note: TIME ZONE is local if not indicated

TITLE: PHYSICAL THERAPY OUTPATIENT CONSULT
DATE OF NOTE: SEP 02, 2005@15:18 ENTRY DATE: SEP 02, 2005@15:18:57
AUTHOR: EXP COSIGNER:
URGENCY: STATUS: COMPLETED

REFERRAL SOURCE: PC (Rafiq)
REASON: chronic LBP

DIAGNOSIS AND/OR SIGNS & SYMPTOMS: chronic LBP

SUBJECTIVE: Vet reports that his c/c is "spells like almost blacking out that started after numerous falls". Reports about a month ago his (L) knee and ankle gave out on him and he fell onto his left side and since that time has experienced a "subliminal" type sensation of dizziness that is getting worse and he is concerned with driving. Has had his ears checked and nothing and no infection, this cleared by ENT. Describes a sense of vertigo that happens with numerous activities but not any one thing tends to set this off. Denies any type of whiplash type injury but has had a hx of C4-5 cervical disectomy about 15 years ago? Denies any significant neck or low back pain but says that he is involved with Therapeutic Recreation 5 times a week here doing comprehensive abdominal ex's, stretches as well as he personally doing swimming ex at the local YMCA 5x/week. Says he has to exercise or "I can't move", weight has stayed about the same. PCP working up his current c/o's with xrays, ENT consult, has an appt. with Neuro in October.

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

EXHIBIT #9p

VAMC

Consult Request

Printed On Oct 31, 2006

OBJECTIVE: amb to dept. (I) using std cane, alert Ox4.
AROM and motor grossly WNL's, denies any radicular neck or LBP.
No nystagmus noted, (-) Romberg in standing.
Vet did report a few times of the dizziness during this appt. especially after getting up from supine position, rolling his trunk toward the (L) but no head/trunk consistent movement to set off these subjective c/o's.

EDUCATION (ITEMS DISCUSSED): discussed role of nervous as well as musculoskeletal systems. Reviewed vets current ex program and encouraged continued compliance.

VETERAN RECEIVED 45 MINUTES OF PHYSICAL THERAPY INTERVENTION.

PT EVAL (97001)x1
EDUC (97535) x 2

ASSESSMENT: Vet without significant neck or back pain currently but chief complaint appears to be dizziness since falling approx 4 weeks ago. He is participating in appropriate ex group with TR for previous low back and neck pain, encouraged continued compliance. Agree with consult for Neurology to hopefully asses source of dizziness.

PLAN: discontinue PT, no identifiable PT goals, encouraged continue compliance with TR exercise groups.

/es/ :
PHYSICAL THERAPIST
Signed: 09/02/2005 15:33

Receipt Acknowledged By:
09/02/2005 16:04 /es/ : M.D.
Primary Care Physician

===== END =====

Current PC Provider: -----
Current PC Team: ORANGE TEAM
Current Pat. Status: Outpatient
Primary Eligibility: SERVICE CONNECTED 50% to 100%

Order Information
To Service: NEUROLOGY OUTPATIENT CONSULT
From Service: PC MOD
Requesting Provider: I
Service is to be rendered on an OUTPATIENT basis
Place: Consultant's choice

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation



Health Summary

Printed On Oct 31, 2006

() Discharge from Clinic
Veteran does agree with current progress
report.

Signed by: /es/ MHR
ART THERAPIST 01/11/2006 11:28

01/05/2006 12:00 Title: PSYCHOLOGY - BEHAV MED
HCV SUPPORT GROUP NOTE
1000 - 1130

Genotype: 2a
Length of TX: Completed

Content of Group:

██████████ attended HCV support group, as scheduled. Today's group was joined by 2 new members. Good group discussion and education regarding the physical and psychological effects of the HCV treatment. ██████████ continues to be an active and important participant in the group and its discussion. He is positive and encouraging of others and appears to benefit from the social interaction.

A:
Low suicide risk at this time
Axis I: Major Depressive Disorder
Axis II: Deferred
Axis III: HCV, in remission
Axis IV: Resolving problems with health
Axis V: GAF = 70

PLAN: RTC in one week.

Signed by: /es/ Ph.D.
PSYCHOLOGIST 01/23/2006 14:13

Digital Pager: 63-162

01/04/2006 11:13 Title: THERAPEUTIC RECREATION/CAT OPT PROGRESS NOTE
PART I: PROGRAM
ATTENDED:

- () Arts/Crafts
- () Creative Writing
- () Drumming

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

EXHIBIT #9q

/AMC

Progress Note

Printed On Oct 31, 2006

PT came today with c/o rash lower legs after he went out on his farm. The rash is pruritic.

O/E afebrile, VSS, lungs clear, heart RRR, abd soft non tender, a maculopapular erythematous rash lower legs with excoriations. The rash is consistent most likely with acute contact dermatitis due to poison ivy exposure.

IMP Contact dermatitis

PLAN: Medrol dose pack and hydroxyzine. RT prn.

/es/ , M.D.
Primary Care Physician
Signed: 07/13/2006 16:35

TITLE: LIVER CLINIC NOTE

DATE OF NOTE: JUL 13, 2006@14:21

ENTRY DATE: JUL 13, 2006@14:21:38

AUTHOR:

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

*** LIVER CLINIC NOTE Has ADDENDA ***

CC: F/U Hep C post-treatment

HPI: The pt is a 51 yo wm with a hx of Hep C, 2B diagnosed in 6/03. He was treated for 24 weeks with IFN/Ribavirin in 2004 and has experienced SVR, last HCV RNA undetectable in 12/05. He is convinced he is still experiencing liver complications/symptoms from the Hep C. He reports chronic fatigue, "liver pain", n/v, intermittent dark stools, and dark urine all of which he attributes to his liver. He states that his symptoms are "definitely due to hepatitis."

The pain is located in the R back under his ribs. It can occur any time day or night, but is dramatically worse with eating fatty foods which he avoids currently. The pain is not exacerbated by anything else and is relieved by increasing water intake. The black stools have been occurring for ~8 months intermittently. He also reports occasional scant BRBPR. He has been taking NSAIDs for knee pain for many months but has stopped them for the past 4 weeks. He denies hx of PUD, no prior endoscopy, no heartburn/dysphagia, no wt loss.

PMHx: Hep C, 2B- treated in 2004 with SVR
Hep B- cleared, now Surface ab positive
Syphilis

PSurgHx: multiple knee surgeries and L ankle repair
appendectomy

SocHx: quit smoking in 1980
no alcohol or drug use

Meds: tramadol

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation



Permanent Subcommittee on Investigations
EXHIBIT #9r

VAMC

Health Summary

Printed On Oct 31, 2006

The right kidney measures 11.8 cm in length and the left kidney measures 10.7 cm in length. Both kidneys are sonographically normal. The spleen measures 12.9 cm in length and is unremarkable.

Impression:

1. Splenomegaly

EGD 08/06

Impression:

- Hiatus hernia.
- Papulous gastropathy. Biopsied.
- Normal examined duodenum.

Colonoscopy 08/06

Impression:

- Hiatus hernia.
- Papulous gastropathy. Biopsied.
- Normal examined duodenum.

ASSESSMENT:

51 yo wm with a hx of Hep C, 2B diagnosed in 6/03. Pt treated for 24 weeks with IFN/Ribavirin in 2004. Referred by PCP for complians of "liver pain". current pain is not related to Liver. Seems like secondary to spinal stenosis vs radicular pain vs muscular pain. Need to r/o above. However as clearly mentioned is not GI related.

PLAN/RECOMMENDATIONS:

1. F/u with PCP for w/u of radicular pain.
2. Continue pain medications as needed.

FOLLOW-UP:

Schedule patient for a follow-up appointment in this clinic:

None

Schedule the following tests prior to the next appointment:

None

Place the patient on the schedule for the following procedure(s):

None

Signed by: /es/ M.D.
RESIDENT PHYSICIAN 09/21/2006 15:29

Digital Pager: 327-9149

09/21/2006 15:35

Title: ADDENDUM

Ref: LIVER CLINIC NOTE

Dated: 09/21/2006 14:48

Pt seen. Long discussion. His pain IS NOT liver related. He has radicluar pain at about t11 and hyperalgesia along that dermatome. Trigger point injections from anesthesiology might be helpful. He has fatigue which he ascribes to a side effect of interferon 18 months later even though we cured his virus. He is

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

VISTA Electronic Medical Documentation

Permanent Subcommittee on Investigations

VAMC

EXHIBIT #9s

Health Summary

Printed On Oct 31, 2006

clearly poorly conditioned cardiovascular wise and needs to start exercising to reverse his fatigue rather than obsess about 18 months ago. he need not return to liver clinic.

Signed by: /es/ A.D.
Staff Physician 09/21/2006 15:39

Analog Pager: 63-648
Digital Pager: 63-648

09/21/2006 13:05 Title: SPECIALTY CLINIC NURSING NOTE
Patient Age: 51

Vital Signs:

Blood Pressure: 115/73 (09/21/2006 13:04)
Pulse: 68 (09/21/2006 13:04)
Respirations: 18 (09/21/2006 13:04)
Temperature: 99 F [37.2 C] (07/13/2006 15:58)
Pain: (Scale 0-10) 0 (09/21/2006 13:04)
Height: 72 in [182.9 cm] (07/13/2006 15:58)
Weight: 264.9 lb [120.4 kg] (09/21/2006 13:04)
BMI: 36.0

List items the patient would like to discuss with the provider today:
Patient here for f/u, alert and ambulatory.

Signed by: /es/ W,RN
STAFF NURSE 09/21/2006 13:06

09/21/2006 09:50 Title: THERAPEUTIC RECREATION DC NOTE
Veteran has not participated in Therapeutic Recreation exercise clinic for over 90 days due to major medical change. As a result of lack of attendance or contact, veteran is discharged from this clinic at this time. He will require a new consult from his PCP if he would like to attend in the future.

Signed by: /es/ CPRP
Recreation Therapist 09/21/2006 09:51

Analog Pager: 62599

09/20/2006 16:03 Title: PC GENERAL NOTE
51 years old wm veteran with hx of DJD s/p bilateral knee surgery with residual pain knee jts and hips, chronic pain L heel due to a detached calcaneal spur comes to clinic today for f/u and requets a stronger pain medication as Tylenol#

: UNIT: 5G0000 :
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APPLICATION FOR DISABILITY INSURANCE BENEFITS

I APPLY FOR A PERIOD OF DISABILITY AND/OR ALL INSURANCE BENEFITS FOR WHICH I AM ELIGIBLE UNDER TITLE II AND PART A OF TITLE XVIII OF THE SOCIAL SECURITY ACT, AS PRESENTLY AMENDED.

MY NAME IS [REDACTED]

MY SOCIAL SECURITY NUMBER IS [REDACTED]

MY DATE OF BIRTH IS [REDACTED]

I AM A CITIZEN OF THE UNITED STATES.

I DO NOT HAVE AN UNSATISFIED FELONY WARRANT(S).

I DO NOT HAVE AN UNSATISFIED FEDERAL OR STATE WARRANT(S) FOR VIOLATION OF PROBATION OR PAROLE.

I BECAME UNABLE TO WORK BECAUSE OF MY DISABLING CONDITION ON November 1, 2004.

I AM STILL DISABLED.

NO PREVIOUS APPLICATION HAS BEEN FILED WITH THE SOCIAL SECURITY ADMINISTRATION BY OR FOR ME.

MY U.S. MILITARY SERVICE DATES ARE AS FOLLOWS:

START DATE	END DATE
May 19, 1975	September 19, 1975

I AM NOT ENTITLED TO NOR DO I EXPECT TO BECOME ENTITLED TO A PENSION OR ANNUITY BASED IN WHOLE OR IN PART ON WORK AFTER 1956 NOT COVERED BY SOCIAL SECURITY.

THE SOCIAL SECURITY ADMINISTRATION AND THE STATE AGENCY REVIEWING MY CLAIM DO HAVE MY PERMISSION TO CONTACT MY EMPLOYER(S).

I HAVE NEVER MARRIED.

SG-SSA-16

I DO NOT HAVE ANY CHILDREN UNDER AGE 18; AGE 18-19 ATTENDING ELEMENTARY OR SECONDARY SCHOOL FULL TIME; OR AGE 18 OR OVER AND DISABLED BEFORE AGE 22 WHO MAY BE ELIGIBLE FOR SOCIAL SECURITY BENEFITS ON THIS RECORD. THIS INCLUDES CHILDREN WHO MAY OR MAY NOT BE LIVING WITH ME.

I UNDERSTAND THAT I MUST PROVIDE MEDICAL EVIDENCE ABOUT MY DISABILITY, OR ASSIST THE SOCIAL SECURITY ADMINISTRATION IN OBTAINING THE EVIDENCE.

I UNDERSTAND THAT I MAY BE REQUESTED BY THE STATE DISABILITY DETERMINATION SERVICES TO HAVE A CONSULTATIVE EXAMINATION AT THE EXPENSE OF THE SOCIAL SECURITY ADMINISTRATION AND THAT IF I DO NOT GO, MY CLAIM MAY BE DENIED.

I AUTHORIZE ANY PHYSICIAN, HOSPITAL, AGENCY, OR OTHER ORGANIZATION TO DISCLOSE ANY MEDICAL RECORD OR INFORMATION ABOUT MY DISABILITY TO THE SOCIAL SECURITY ADMINISTRATION OR TO THE STATE DISABILITY DETERMINATION SERVICES THAT MAY REVIEW MY CLAIM OR CONTINUING DISABILITY.

I AUTHORIZE THE SOCIAL SECURITY ADMINISTRATION TO RELEASE ANY INFORMATION ABOUT ME TO A PHYSICIAN OR MEDICAL FACILITY PREPARATORY TO AN EXAMINATION OR TEST. RESULTS OF SUCH EXAMINATION OR TEST MAY BE RELEASED TO MY PHYSICIAN OR OTHER TREATING SOURCE.

I AUTHORIZE THAT INFORMATION ABOUT MY DISABILITY MAY BE FURNISHED TO ANY CONTRACTOR FOR CLERICAL SERVICES BY THE STATE DISABILITY DETERMINATION SERVICES.

I AGREE TO NOTIFY THE SOCIAL SECURITY ADMINISTRATION OF ALL EVENTS AS EXPLAINED TO ME.

I AGREE TO NOTIFY THE SOCIAL SECURITY ADMINISTRATION:

-- IF MY MEDICAL CONDITION IMPROVES SO THAT I WOULD BE ABLE TO WORK, EVEN THOUGH I HAVE NOT YET RETURNED TO WORK.

-- IF I GO TO WORK WHETHER AS AN EMPLOYEE OR A SELF-EMPLOYED PERSON.

-- IF I APPLY FOR OR RECEIVE A DECISION ON BENEFITS UNDER ANY WORKERS' COMPENSATION LAW OR PLAN (INCLUDING BLACK LUNG BENEFITS FROM THE DEPARTMENT OF LABOR), OR OTHER PUBLIC BENEFIT BASED ON DISABILITY.

-- IF I AM CONFINED TO A JAIL, PRISON, PENAL INSTITUTION, OR CORRECTIONAL FACILITY FOR CONVICTION OF A CRIME OR I AM CONFINED TO A PUBLIC INSTITUTION BY COURT ORDER IN CONNECTION WITH A CRIME.

THE ABOVE EVENTS MAY AFFECT MY ELIGIBILITY TO DISABILITY BENEFITS AS PROVIDED IN THE SOCIAL SECURITY ACT, AS AMENDED.

I AGREE TO NOTIFY THE SOCIAL SECURITY ADMINISTRATION IF I BECOME ENTITLED TO A PENSION OR ANNUITY BASED ON EMPLOYMENT AFTER 1956 NOT COVERED BY SOCIAL SECURITY, OR IF SUCH PENSION OR ANNUITY STOPS.

SG-SSA-16

[REDACTED]

BENEFITS TO A STEPCHILD TERMINATE THE MONTH AFTER THE MONTH THE WORKER AND THE STEPCHILD'S PARENT OBTAIN A FINAL DIVORCE. THEREFORE, IF A STEPCHILD BECOMES ENTITLED ON MY RECORD, I AGREE TO NOTIFY SSA IF THE STEPCHILD'S PARENT AND I SUBSEQUENTLY DIVORCE.

MY REPORTING RESPONSIBILITIES HAVE BEEN EXPLAINED TO ME.

REMARKS:

I HAVE REVIEWED MY EARNINGS STATEMENTS AND THEY ARE CORRECT AS POSTED. THE EARNINGS LIMITS HAVE BEEN EXPLAIN TO ME AND I UNDESRTAND IT. ALL MY QUESTIONS REGARDING THIS LIMITS HAVE BEEN ANSWERD. I DO NOT EXPECT TO EARN OVER MY LIMIT. I WAS NOT ABLE TO WORK DUE TO MEDICAL PROBLEMS FROM 1990 TO 1999.

I KNOW THAT ANYONE WHO MAKES OR CAUSES TO BE MADE A FALSE STATEMENT OR REPRESENTATION OF MATERIAL FACT IN AN APPLICATION OR FOR USE IN DETERMINING A RIGHT TO PAYMENT UNDER THE SOCIAL SECURITY ACT COMMITS A CRIME PUNISHABLE UNDER FEDERAL LAW BY FINE, IMPRISONMENT OR BOTH. I AFFIRM THAT ALL INFORMATION I HAVE GIVEN IN CONNECTION WITH THIS CLAIM IS TRUE.

[REDACTED]

[REDACTED]

SIGNATURE _____

DATE _____

, M.D.

[REDACTED]
[REDACTED]

CLAIMANT: [REDACTED]
SSN: [REDACTED]
CASE NO.: 121206C
PHYSICIAN: [REDACTED], M.D.
LOCATION: [REDACTED]
DATE OF EXAM: December 12, 2006
TYPE OF EXAM: Comprehensive Internal Medicine Examination

SOURCE OF HISTORY: The patient.

REVIEW OF RECORDS: VA Hospital.

CHIEF COMPLAINT: Chronic bilateral knee pain, left ankle pain, neck pain, and low back pain.

HISTORY OF PRESENT ILLNESS: [REDACTED] a 52-year-old, white male who has had numerous bilateral knee surgeries. He had surgeries in 1987, 1988, 1989, 1990, 1991, and 1992. In 1992 he also had a tendon repair of the left ankle. In 1994 he had an automobile accident and had an anterior cervical discectomy.

He also has had an injury to his lower back.

At the present time, the patient has chronic pain in both knees and the left ankle. He ambulates with crutches. He states that he can ambulate around the house without his crutches.

He has chronic pain in his left ankle with standing and walking.

He has chronic pain in his neck and back. He wears a TENS unit. He has pain in the arms and hands and legs and feet and has decreased sensation in all of his extremities.

PAST MEDICAL HISTORY: Injury to wrists and head, appendectomy.

REVIEW OF SYSTEMS: Decreased vision, difficulty hearing, syphilis, peptic ulcer disease, hepatitis B and C, and chest pain; I filled out a chest pain questionnaire.

EDUCATION: Fourteen years.

SOCIAL HISTORY: Single, no children. He does not smoke and does not drink alcohol.

WORK HISTORY: Sales, construction, store manager, bookkeeping, garage worker, telemarketer. His last job was about two years ago working in retail sales at Burlington Clothing.

MEDICATIONS: Hydrocodone, ibuprofen, tramadol, Lithopram, etodolac.

[REDACTED]
December 12, 2006
[REDACTED]

Page Two

ALLERGIES: None.

PHYSICAL EXAMINATION:

GENERAL APPEARANCE: [REDACTED] white male who appears to be about his stated age. He is alert and oriented. He answers all questions appropriately. He has no cognitive disorder. He is unkempt and malodorous. He has chronic pain behaviors.

HEIGHT AND WEIGHT: 6', weight 250 pounds.

BLOOD PRESSURE: 130/84.

PULSE: 72 and regular.

RESPIRATION: 16 and regular.

SNELLEN EYE EXAM: Without glasses right eye and left eye 20/200. With glasses right eye and left eye 20/20.

HEENT: The tympanic membranes and otic canals are clear. The pharynx is clear. The pupils react to light. I could not visualize the fundi. The neck has no nodes. The thyroid is not enlarged.

CHEST: The chest is clear to auscultation.

CARDIOVASCULAR SYSTEM: The heart has a regular rhythm without murmur. There are no carotid bruits. Peripheral pulses are normal. There is no pretibial edema.

ABDOMEN: The abdomen is obese and nontender. The liver is not enlarged.

SPINE: The cervical spine has extreme loss of range of motion in all planes. There is tenderness bilaterally.

The lumbar spine has extreme loss of range of motion in all planes. There is tenderness bilaterally. He is wearing a TENS unit.

EXTREMITIES/RANGE OF MOTION: The patient restricts range of motion in his shoulders to the point that the exam could not be performed. He exhibits chronic pain with attempts to manipulate the shoulders. The elbows, wrists, and fingers have normal ranges of motion. There is a 3/5 grip in each hand which is normal.

I could not do range of motion testing on the hips and knees. The patient complained of extreme pain with movement of his legs. He was able to flex his knees about 10 to 20 degrees. He was able to sit with his legs over the edge of the table at 90 degrees. He has numerous surgical scars on both knees. The ankles have normal ranges of motion.

NEUROLOGICAL EXAM: Cranial nerves II through XII are intact. Cerebellar and motor functions are normal. Deep tendon reflexes are equal. There is stocking decrease sensation of the lower

[REDACTED]
December 12, 2006
[REDACTED]

Page Three

extremities and sleeve/glove decrease sensation of the upper extremities.

MOTOR STRENGTH/MUSCLE TONE: The patient has adequate muscle strength and tone in the upper and lower extremities insofar as it could be tested.

STATION AND GAIT: The patient could not heel, toe, or tandem walk. He ambulates in the hallway at about half the normal pace and uses crutches. He can ambulate without his crutches.

CLINICAL IMPRESSION:

- 1) S/P multiple bilateral knee surgeries.
- 2) Chronic bilateral knee pain secondary to #1.
- 3) S/P surgery on left ankle with chronic tendinitis/arthritis of the left ankle.
- 4) S/P surgery on cervical spine with chronic neck pain.
- 5) Chronic low back pain.
- 6) Hepatitis B and C by history.
- 7) Chest pain of unknown etiology.

CLINICAL ASSESSMENT: The patient has normal speech and hearing. He has normal cognitive function. He has adequate dexterity of his hands and fingers and adequate grip strength. He has extreme loss of range of motion of his neck and back. I could not do range of motion testing on his shoulders, hips, or knees. He ambulates in the hallway at about half the normal pace. He ambulates with forearm crutches. He can ambulate without the crutches. The patient has chronic pain behaviors.

I observed the patient in the parking lot. He drives a small traditional Volkswagen. He was able to get into the Volkswagen without difficulty. This required flexing his knees to at least 90 degrees. He fastened his seat belt and turned his head 90 degrees to the right to look over his right shoulder to back out. He had no trouble using his left shoulder to slam the car door.

df
M.D.

EXPLANATION OF DETERMINATION

NAME OF CLAIMANT	W/E's NAME (IF CDB or DWB)	SSN	CLAIM TYPE
[REDACTED]	[REDACTED]	[REDACTED]	DIB

52 yr old male c/o knee problems, hepatitis C & mental problems. He has the residual functional capacity to lift/carry 20 lbs occasionally, 10 lbs frequently & to stand/sit/walk 6 hrs in an 8 hr workday. One of his past relevant jobs was as a [REDACTED] where he lifted 50 lbs occasionally. He cannot do the job as he describes it. In the DOT the job is Sales Attendant, 299.577-010, which carries a light strength rating. He has the residual functional capacity to do this job as it exists in the national economy.

CFS/cfs

**SOCIAL SECURITY NOTICE
NOTICE OF RECONSIDERATION**

From: Social Security Administration

Date: December 21, 2007

Claim Number: [REDACTED]
Claim for: DIB

[REDACTED]

Upon receipt of your request for reconsideration we had your claim independently reviewed by a physician and disability examiner in the state agency which works with us in making disability determinations. The evidence in your case has been thoroughly evaluated; this includes the medical evidence and the additional information received since the original decision. We find that the previous determination denying your claim was proper under the law. Attached to this notice is an explanation of the decision we made on your claim and how we arrived at it. The reverse of this notice identifies the legal requirements for your type of claim.

ABOUT THE DECISION

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

In addition to the reports we told you about in our first letter, the following reports were used to decide your claim.

[REDACTED] NS evidence received 09/24/2007
MD evidence received 11/26/2007
DO (OKC) evidence received 12/06/2007
INFORMATION SUBMITTED BY YOU IN FILE evidence received 12/3/2007

We have determined that your condition was not disabling on any date through 03/31/05, when you were last insured for disability benefits. In deciding this, we studied your records, including the medical evidence and your statements, and

[REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #10a

considered your age, education, training and work experience in determining how your condition affected your ability to work.

You said that you were unable to work because of acquired immune deficiency syndrome, joint pain with neuropathy, asthma, allergies and anxiety.

The medical evidence shows the following: Although you sometimes had problems with asthma and allergies, you were able to breathe adequately most of the time. While your joint pain and neuropathy caused discomfort, you could still move around and walk well enough to do some types of work. Your anxiety kept you from doing stressful and complex work, but you could do simple, routine work. Although you had tested positive for HIV, the medical evidence does not show you had any disabling effects. Medical evidence does not show any other impairments which kept you from working on or before the date you were last insured for disability benefits.

We realize that your condition kept you from doing any of your past work, but it did not keep you from doing other work which was less demanding. Based on your age, education and past work experience, you could have done other work prior to the date you were last insured for disability benefits.

IF YOU DISAGREE WITH THE DETERMINATION

If you believe that the reconsideration determination is not correct, you can request a hearing before an administrative law judge of the Office of Hearings and Appeals. If you want a hearing, you must request it no later than 60 days from the date you receive this notice. You may make your request through any Social Security office. As part of the appeal process, you also need to tell us about your current medical condition. We provide a form for doing that, the Disability Report – Appeal. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete the report online at <http://www.socialsecurity.gov/disability/hearing>. Read the enclosed leaflet for a full explanation of your right to appeal. Read the enclosed leaflet for a full explanation of your right to appeal.

IF YOU WANT HELP WITH YOUR APPEAL

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security Office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due benefits to pay toward the fee.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. You might lose benefits if you file a new application instead of filing an appeal. Therefore, if you think this decision is wrong,



you should ask for an appeal within 60 days.

This decision refers only to your claim for benefits under the Social Security Disability Insurance Program. If you applied for other benefits, you will receive a separate notice when a decision is made on that claim(s).

If you have questions about your claim, you should get in touch with any Social Security office. Most questions can be handled by telephone or mail. If you visit an office, however, please be sure you have this notice with you.

In addition, you are not entitled to any other benefits based on this application. If you have applied for other benefits, you will receive a separate notice when a decision is made on that claim.

This decision refers only to your claim for benefits under the Social Security Disability Insurance Program. If you have not already received a decision about your payments under the Supplemental Security Income Program, you will receive a separate notice shortly.

Summarized below are legal requirements for the various types of disability claims:

DISABILITY INSURANCE CLAIM

To be considered disabled, a person must be unable to do any substantial gainful work due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in his or her usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether he or she can work.

DISABLED WIDOW (WIDOWER) CLAIM

A widow, widower, or surviving divorced wife (age 50-60) must meet the disability requirement of the law within a specified 7-year period. A person may be considered disabled only if he or she has a physical or mental impairment that is so severe as to ordinarily prevent a person from working. The disability must have lasted or be expected to last for a continuous period of at least 12 months.

CHILDHOOD DISABILITY BENEFITS

Childhood disability benefits may be paid to a person age 18 or older if the person has a disability which began before age 22 or within 84 months of the end of an earlier period of childhood disability. The condition, whether physical or mental, must be severe enough to keep a person from doing any substantial gainful work. We look at the person's age, education and previous training when we decide whether he or she can work. In addition, the condition must have lasted or be expected to last for at least 12 months in a row.

Ramona Schuenemeyer
Regional Commissioner

DL/dl

Enclosure:
SSA Pub. No. 70-10281
Form SSA-1928-U2
CC: [REDACTED]

DO 783

[REDACTED]

(The following is a transcript in the hearing held before Peter M. Keltch, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on April 29, 2009, at Oklahoma City, Oklahoma in the case of [REDACTED] Jr., Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED]. Also present was Medical Expert, [REDACTED].)

(The hearing commenced at 11:15 a.m., on April 29, 2009.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: This is the case of [REDACTED]. Are you [REDACTED].

CLMT: Yes, sir.

ALJ: [REDACTED] my name is Peter Keltch and I'm a United States Administrative Law Judge. I'm here today to hear your case. You have filed two claims technically. I find some people don't even realize they have filed two claims. One of your claims is for Disability Insurance because when you work you paid in FICA or some form of tax and some of that money went into the Disability Insurance Trust Fund. And so you have paid for certain coverage of Disability Insurance. Unfortunately, the difference in your case for the most is, if I'm reading the outside of the folder correctly, you haven't paid in for quite a while, let's see, look here, miscellaneous on disability, I'm showing here the date of last insured of March 31st of 2005. So, you're not currently insured from Disability. There's a, let me see, there's a requirement that you pay in a certain number of quarters and that when you become -- when you get down to the point that out of the last 20 quarters you had more non-paid quarters than paid quarters and your insurance expires. So, you apparently stopped paying in the first quarter in 2000. I don't have any record of any payments in and

then that means that your insurance expired March 31st of 2005, which is fine if you are disabled as of the date you said, which was April 15, 2003. So, if you're actually disabled in '03, then you still had coverage. However, if I ever find that you were not disabled until 2006, '07, '08, '09, sometime later, then you wouldn't have any insurance coverage. So, that's a technical question on the coverage. SSI is the second claim. That's Supplemental Security Income. That is available for people who don't even have any insurance, or if they do have insurance it's not enough to bring them up to the minimal level and Congress has established a minimal level of income, which should be received by the agent and the disabled. And so, people are short of that and have low resources then they may get a Supplemental Security Income. It may be 100 percent of that amount. It may be something less than 100 percent of that amount to get up to that amount. Just like I'm say Supplemental. And if you're not covered by insurance and I find that you're disabled after the insurance ran out, you get 100 percent of the Supplemental Security Income up to that same level. So, these are technical coverage questions, but having gone through all that to explain to you that there are two questions, two claims with different things involved, one thing they have in common is the definition for Disability. You have to be disabled under our Rules before you can be considered disabled, either under the insurance program or the SSI program. And that apparently is the question. You applied and they looked at everything and said no, you're not disabled and turned down your claim. Then you don't agree with that and therefore you have requested a hearing and that this

stage I will start over. I will look at all the records they looked at. I'll look at all the records, which may have been added to the file since then. In fact, sometimes I get records after the hearing and I look at those. I listen to the testimony. I didn't have any testimony. This is the first time you've been able to tell your story personally to someone who actually has the authority to decide your case.

CLMT: Yes, sir.

ALJ: And I'm an independently motivated Administrative Law Judge. I don't have a quota. I don't have any, you know, like every now and then they talk about traffic tickets, you know, cops supposedly have a quota, the issue so many tickets and so on. I don't have anything like that.

CLMT: Yes, sir.

ALJ: I just decide these cases one by one the way I think they ought to be decided.

CLMT: Yes, sir.

ALJ: Okay. I haven't decided your testimony. I have an expert witness at the table with you. He's a vocational expert. He's an expert on jobs. So, he can tell me what it took to do your past work. He can tell me if you have skills from that work and so forth. And then I'm going to have a medical expert on the telephone, Dr.

phonetic) whose an internal medicine doctor in Oklahoma City and he has examined the medical records we were able to send to him and he's going to tell me what he found with them. So, it's a whole new mix of evidence. So, as you can see I just start over.

CLMT: Yes, sir.

ALJ: I just start over and look at the whole picture. Now, the first question is the admissibility of the proposed Exhibits. We have an Exhibit file in electronic form and the proposed Exhibits are up to 4A, 15B, 4D, 14E and 15F and then today there is some more medical from the [REDACTED] in New Castle, which has been brought in and my doctor won't have seen this. I don't know whether it will affect his testimony if he were to see or not see it. There's nothing about it, I'll tell him about it if I see anything in here that means something to me and we'll just have to see how that goes. Also, I have an appointment for a different representative. Let's see, the medical will go into the F's, so that will be 16F but we have a new representative and it appears that [REDACTED] is in the same office as the one that we already had on the file, which is Mr. Higgins.

CLMT: Yes, sir.

ALJ: And that's an interesting thing. I've never seen that. Waiver of the Fee you signed that and that I waive my right to charge and that you emphasize that Mr. [REDACTED] is to remain beneficiary if there is an attorney fee.

ATTY: Yes, sir. We haven't had any trouble with it yet. There may be different way to do it though.

ALJ: I just never had seen it. I don't know. A lot of times we'll just have a deal where they -- we get a whole new 1696 and a whole new P Agreement and the other one says well technically he withdraws. Actually, up here -- oh I see, I'm appointing and it says

the name of the principle representative. My main representative -- I think this works. _____ is my main representative. I think that works. Is he an associate or a partner in the same firm?

ATTY: Just in the same firm. I do most of his hearing now, actually.

ALJ: Okay. Where is Ingram, Texas?

ATTY: It's right next to Fort Worth, Texas, a little bit West.

ALJ: A little West?

ATTY: Yes.

ALJ: Okay. I've been to Fort Worth many times and we also cover Wichita Falls.

ATTY: Oh really.

ALJ: Out of this office, but Ingram didn't ring a bell with me.

ATTY: It's -- I mean its just West.

ALJ: You probably go into Fort Worth then for any hearings?

ATTY: Yes, sir. _____

ALJ: Well, if you ever get any in the area served by Wichita Falls, then you'll end up seeing one of us. We're trying to get a permanent site down there now so that we can use our video equipment for remote teleconferencing in Wichita Falls, but we don't have it yet. So, we get to drive down to Wichita Falls and go to the Federal Building and we have a really rotten room on the 4th floor next to the alley somewhere, but we go down there in person to hear things in Wichita Falls so I, you know, I've heard of Verna and then I've heard of Childress and I've heard of --

ATTY: Sure.

ALJ: -- what's the town directly south? It's kind of on the South edge, there's a town of some size there and we have people from, that's that, you know, it's provided that by what the Social Security District Office covers. So, that area of the District Office gets attached to a hearing office. Well, anyway I digress. Let me call the doctor. Well, no, first of all we were admitting all these and then you have a brief and technically that will be a part of Exhibit, or be part. So, we have all those things to add to the file and you don't have any objection, I guess to any of the proposed Exhibits?

ATTY: No, sir. I did have one question for you.

ALJ: Yes.

ATTY: I'm just curious as to which Exhibit Family Medicine is? They weren't really labeled on my CD.

ALJ: Family Medicine. Okay. I have a Family Practice, 14F, which covered October 24, 2008 to February 17, 2009.

ATTY: That's the one. Thank you.

ALJ: 14F. And then we have a 15F, which is [REDACTED]
M.D., one page 4/22/2009.

ATTY: Yes, sir.

ALJ: I suppose that could be a letter.

ATTY: It sure is.

ALJ: I think it's an abdominal study. It's like [REDACTED], M.D. Family Practice. All right. We'll admit everything then.

(Exhibits, previously identified, were received into evidence and made a part of the record thereof).

ALJ: Let me get the doctor on the phone so I can swear everybody in. You remember on Animal Farm all animals were equal except pigs

were more equal. All of us are equal except doctors. They're more equal.

ME: Hello?

ALJ: [REDACTED] this is Judge Keltch.

ME: Okay.

ALJ: We're calling on the case of [REDACTED]

ME: Okay.

ALJ: And I'm getting ready to swear in the witnesses. Do you have any objection to taking an oath? Is the other gentleman going to testify?

ATTY: No, sir.

ALJ: All right. If all of you will take the oath of the witness at the same time?

(The Claimant, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Let me ask you some routine things [REDACTED]. Now your address is now, is it still [REDACTED]?

A Yes, sir.

Q Is the phone number still [REDACTED]

A Yes, sir.

Q This says you were born [REDACTED], no strike that, [REDACTED], [REDACTED]?

A Yes, sir.

Q And I guess that hasn't changed?

A No.

Q And so you're now 33?

A Yes, sir.

Q You had a high school education and then it says also another year of college?

A Yes, sir.

Q Where was that?

A I went to [REDACTED] and then [REDACTED]

Q And then you went to [REDACTED] Did you complete that?

A Yes, sir.

Q Did you become a [REDACTED]

A Yes, sir.

Q Do you have a license?

A Yes, sir.

Q All right. And so you have that specialized training? I assume that the college was general subjects?

A Yes.

Q You didn't complete a degree --

A No, sir.

Q -- or certificate there?

A No, sir.

Q All right. Is that what you've been doing most of your work career being a [REDACTED]

A Until I got ill, yes.

Q Do you still do -- did you do [REDACTED] and so on?

A No.

Q No? Okay. Now, let's see. You live in an apartment? How many are in the household?

A Two.

Q And they are who?

A Myself and my friend [REDACTED]

Q [REDACTED] who is with you today?

A Yes, sir. He's who takes care of me.

Q Do you have income now from any source?

A No.

Q How are you living?

A He supports me. He buys my medications.

Q If you get your benefits do you and he have an agreement that you're going to pay him back some money?

A Yes, sir.

Q I'll tell you a little secret about that. If you go in, if you're approved and they say now where've you been living and if you say I've been having a free apartment, they say oh well we'll deduct a third off of your benefits because you didn't have any rent to pay. But if you go in and say I've been living with a friend and I'm going to pay him back, then they give you the full check. I mean it's between you and him to pay him back if he's been paying the rent and bills.

A Yes, sir.

Q Just a little trick to remember.

A Yes, sir.

Q If you go in there and say well I've just been provided a place to stay and they say oh well for Supplemental Security Benefits then you don't get it, or the check.

A Yes, sir.

Q You knew that didn't you?

ATTY: Yes, sir.

Q So, I'm assuming you have an agreement probably do that?

A Yes, sir.

Q All right. We have findings alleged and found by the State Agency, symptomatic HIV infection. Also, they noted an anxiety related disorder. I reviewed the folder and from what I saw I felt that it would be helpful to have a medical expert look over this record and let me know what was going on. But first, let me ask you [REDACTED], do you know how many Exhibits you received, because I think there's some here you may not have received?

ME: I have generally, let me look, I've got through -- well, I've gotten everything permanently, I think through 13F.

ALJ: 13F?

ME: I believe that's right. I'm looking.

ALJ: Well, 14F --

ME: I've got 14F, yes.

ALJ: -- 14F is the records from [REDACTED], October 24th '08 to February 17th '09 and that's a doctor here in Oklahoma City, [REDACTED] and he says he's treating the peripheral neuropathy. I think he's a family practice doctor, is that right?

CLMT: No, he is a pain management doctor.

ALJ: He's a pain management doctor, okay. Well, the record says Family Practice, so that's why I said Family Medicine. And there's 14 pages there of his office notes. I'm screening through it to see if I

see any test results or anything. He says chronic pain syndrome and neuropathy. It said he was getting some improvement from treatment. That was back in January of this year on the pain, but apparently is still constant and difficult to describe, shooting, stabbing, burning and needles. And he was refilling his medication and he was having bad side effects from the medication, dizziness, fatigue, nausea and vomiting. Compliance good, takes the medication as directed, follows up as corrected, but he was agitated and anhedonia, decreased interest in socializing affect and a tendency towards indeciveness and depressed mood. The last item would be, nope it's not in the other one. Sometimes I go from oldest to newest and then sometimes from newest to oldest. Let me see, the last thing would be February 17th of this year, peripheral neuropathy, and then we have a letter from the doctor, which is 15F, and it says Family Practice,

Drive in Oklahoma City and it's a short letter and it's from April 20th, just a little over a week ago. Regarding the above patient, he's been a patient of mine for the last six months. He has a severe disabling form of, it's says performed neuropathy, I think that should be peripheral, but anyway, neuropathy related to HIV. I understand that he has applied for Disability and agree that he is an acceptable candidate and is not capable of working at this time. So, that's a conclusion that this treating doctor has shared with us. And then I have some 24 pages of records from the Clinic in Newcastle, which have just been submitted and I'm not -- you don't have them, so we're not going to go into a lot of that at this time.

(The Medical Expert, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Let me hear from you doctor as to what you did find and what you were provided with respect to severe medically determinable impairments of [REDACTED]

A Okay.

Q Go right ahead.

A As a matter fact Judge, I've been looking while you were talking through things and I do not have anything beyond 12F.

Q 12F?

A Yeah. The index on this thing is not in correct order, so I had to go through the whole document, A, B, C, D and E, there wasn't an F.

Q Let me tell you then, 13F is another one page letter. This is from the [REDACTED] Clinic in Newcastle, it's signed by [REDACTED], M.D. He says, to whom it may concern, [REDACTED] has been a patient of mine since 2004. He has severe, he has severed, I think that means suffered, from severe depression, as well he has the complication of HIV disease, which has led to multiple other difficulties. He is on a large number of medications, many of which have side effects. He has severe peripheral neuropathy from the AIDS disease or the medications. He suffers from many abdominal complaints and chronic diarrhea, as well as fatigue secondary to the medications as well. It is my opinion he cannot maintain gainful employment, nor would he be capable of sitting for additional training or education. If I can be of any further service, please contact me here at the [REDACTED] I guess that's Newcastle, Tuttle and where?

CLMT: In Moore.

ALJ: Moore is the third city?

CLMT: I think.

ALJ: Mustang, could maybe. I don't know what the Tri Cities are, you got me. I know Newcastle and Tuttle are not far apart. So, you've got me. It's a catchy thing Tri City.

BY ADMINISTRATIVE LAW JUDGE:

Q But anyway, all right doctor with that additional -- that's another conclusionary letter from Dr. who's a family doctor who's treated me since I was born.

A Okay. Well, in here I'm looking at -- I looked at all the things you told me with the diagnosis of AIDS. If you go by the manual, basically AIDS is a disease that becomes a cycle when you start having complications. Because most of the times in the manual have to do with secondary infections, stapholaxoid and all of them comes close to what I saw through the number was 12F, is that he has a lot of diarrhea and that is one of the things the listings call for diarrhea for one month or longer resistant to treatment. The Dr.

(Phonetic) who did his Social Security evaluations said basically, it just says that has no authorization for major complications and there's both physical exams from Dr.

(Phonetic) saying peripheral neuropathy and that is basically current because I have not gone through this looking for it. He does have Dr.

has done in during his times, which was done in July of 2004 and approximately at that time, he had basically had blood work done in C4 was 18 and his CD8 was 49 and this is high. Normally, that you have

acne disease when you go help yourselves which are CD4's are high and as the disease progresses you tend to get lower and lower and 18 is normal, 49 was the CD8 and that's when they reset over 100,000 doctors of the virus would share. Would share basically means that they're going to just fails are close to more mild. The only other real sensation to that here is Dr. : gave him a prescription on 8/16/07 for a walker, which, you know, goes with the severe neuropathy. That is not really a physical exam that shows what his - what that means by severe neuropathy. Though what they haven't talked about a walker basically, of course, if you read the manual, that severe neuropathy means difficulty getting around and they said he was able to walk. As a matter fact, when doctor, of course this was two years ago, when Dr. (Phonetic), he says he's able to walk around without a walker. So, you know, we really don't know that except there's a note in here that Dr. : had given him a prescription for a walker to help with his pain and mobility. And he's obviously having pain and I think he's honestly got some active disease with an I24 [sic] and not a viscosity 8 and not a C4. So, in other words I'm not in touch when they're saying the guy is disabled because of HIV, which is fluky although he said it. He just doesn't have the -- he's had a lot of infections most of them have responded to treatment. He said, for example, he said Bell's Palsy, which is usually caused by a virus and that clears up this is what is not good. Now, Dr. : again and I looked up that times when he had -- he describes severe fatigue and diarrhea and fatigue is almost every single visit in Dr. 's place. On 4/19/07, he had diarrhea,

9/01/06, one 11/10/06, 9/16/05 he had diarrhea and then so basically he's had diarrhea multiple times where, and you know diarrhea in the colon is a certain amount. And I really think that usually the cell count has to do with at least probably disabled. And I think you'd have to pay attention to what the two doctors said about his ability to perform and I don't think he's able to perform with what he has. Not work again bears a close resemblance to what Dr. saying that he neither could raise his arms very much and that would impair his inability to be a hairdresser.

Q Well, he comes in today with his walker and when was it prescribed by the doctor? When was he given a prescription for it?

A says 8/16/07 in other words two years ago.

Q When did you have to start using an assisted device, a walker a cane or something to get about?

CLMT: My medicine makes me forget exact dates. It was right around 2005 when I started getting really bad and falling and that's when I started using it.

ALJ: What did the -- now, he says the doctor prescribed it in '07, was that just for insurance or something to pay for it or what? You're saying you are using it?

CLMT: Actually, I was using what -- I was using a cane for a little while and then when he prescribed me the walker then I got it as soon as he prescribed it.

ALJ: All right. Do you use it all the time?

CLMT: All the time.

ALJ: Even at home?

CLMT: No. At home I try to use my cane because I don't have a lot of room in between doorways and stuff.

ALJ: To maneuver?

CLMT: Yeah.

ALJ: Okay. But why was the '03 date the alleged onset date, is that when you really thought you couldn't work anymore?

CLMT: That's when I started to get -- that's when I started vomiting at work, losing my bowels at work. And that's -- I was doing a haircut I remember I was doing a haircut and I cut myself and bled on someone and it terrified me.

ALJ: Yes.

CLMT: That I would infect them.

ALJ: Because you already knew you were positive at that point?

CLMT: Yes.

ALJ: Yes.

CLMT: And I was afraid that I would infect them.

ALJ: Do you work in Texas? I was just curious --

CLMT: I'm sorry.

ALJ: -- because if we have this fine young lawyer here protects us. I thought maybe you'd be down in Texas working or something.

CLMT: No, sir. Worked online.

ALJ: Online? And then you've -- so, you've been in Oklahoma the whole time? Where did you work when you were working?

CLMT: I had my own [REDACTED]

ALJ: You had your own business? And where was it located?

CLMT: Me and my mom opened up a [REDACTED] in Moore.

ALJ: In Moore. Okay. So, that was a going business?

CLMT: I was very outgoing. I loved to work, now I can't. I want to so bad, but I can't.

ALJ: How do you spend your days?

CLMT: In bed or on the couch.

ALJ: All right. [REDACTED] do you have some questions.

ATTY: I do, Your Honor.

EXAMINATION OF CLAIMANT BY ATTORNEY:

Q Mr. [REDACTED] when did the frequent nausea and diarrhea start for you? Was that in 2003?

A It started then and started getting real bad so I quit working.

Q Okay. And when was that?

A When I started using my walker.

Q So, 2005?

A Yeah.

Q Okay. Did you ever have issues with not making it to the bathroom in time, or going in your pant? How frequently did that happen? Was it a weekly occurrence, a monthly occurrence?

A It happens probably a couple times a week.

Q Okay. Was it the same back then as well?

A Yes.

Q Okay. Were you having any difficulty or any problems with headaches back then?

A Yes, sir. I've had headaches ever since I was 11.

Q Okay. So, when did they become disabling?

A When I got my walker, that's when I started getting really bad and everything started hurting.

Q Okay. Has your fatigue just as bad back then as it is now or has it gotten worse?

A I can't walk from my bed to my couch without getting weak.

Q Okay.

A I mean and that's maybe seven feet and I mean and I get winded walking up the stairway just even to get inside the building I had to sit down because I was winded.

Q Okay. Do you have any difficulty bathing or showering?

A I have to have help.

Q Who helps you?

A [REDACTED]

Q When's the last time you've been able to get a bath or a shower unassisted?

A I can't take a bath, I usually take a shower. I have a chair that I put in my shower and it helps.

Q Okay. How long have you had to use that?

A Pretty much ever since I had the walker.

Q Okay.

A Because I can't -- I lose my balance and I fall.

Q Okay. Are you having any trouble sleeping?

A I have really bad insomnia. I'm on two different kinds of sleeping pills. I mean one of them works for my nerves, I think, I guess I'm not sure. I take Seroquel and some -- I have the bottle man, I can't --

Q Would you describe -- do you have, other than your leg pain, your neuropathic pain, do you have just a general sense of or feeling of almost flu like symptoms, just body aches?

A I have like I have the flue all the time. All the time my legs feel like I've been beaten with a baseball bat. My feet they feel like there's needles' just sticking in them and I mean if I don't have my walker that the pain gets so intense that I just fall.

Q Okay. Are you having any sweating problems?

A I have severe night sweats where I'm supposed to wear a pain patch and I have such severe sweats that the patch just comes right off.

Q Okay. And I'm not going to ask you too many more questions. Before you got your walker, what do you feel was your most severe symptom that was keeping you from working?

A The nausea, the vomiting, just feel overall sick.

Q Okay. And when you did vomit was that a daily occurrence --

A Yeah.

Q -- was it a monthly occurrence? Okay.

A It was daily. I mean I take like 15 pills -- 15 different kinds of pills a day. I mean it's just fighting off hoping that I get my anti-nausea medicine in my system before I get out of the restroom and it's in my system where I'll puke.

Q Okay. And when's the last time that you left your house unaccompanied by someone else?

A A few years.

Q When you do leave the house you go with somebody, correct?

Who do you go with?

A I don't drive.

Q Who do you go with and where do you go?

A [REDACTED] takes me to my doctor's appointment and my mom takes me to the grocery store.

Q Okay. How often are you able to get out and go to the grocery store with your mom?

A Once a month.

Q Okay. Is that kind of to just get out?

A Yes. She said maybe it would be good for me if I get out. I mean they have those carts that you can ride.

Q Sure. Okay. Thank you very much Mr. [REDACTED].

ATTY: No further questions, Your Honor.

ALJ: Doctor I've still got you on the phone and it's occurred to me that we may not need you anymore this morning. That we need to ask you anymore questions today.

ATTY: I just have one question for him, Your Honor.

ALJ: The doctor? Okay.

ATTY: [REDACTED] is it possible to have severe AIDS or HIV related symptoms and have an extremely a relatively CD4 count.

ME: I think you could have anxiety, yes. Because as I don't think CD4 has to do with your mental state. I think he's had real anxiety. Now, I have a question for him. Has he has been -- ever been on anti retroviral therapy?

CLMT: Retro -- what's that?

ME: I don't find it in his chart by the way.

ALJ: Did the doctor fail?

ATTY: Yes.

ME: The real H-A-A-R-P is real good -- be good medicine for him.

CLMT: Yes.

ALJ: You were on that?

CLMT: I do take it now.

ME: I can't -- I haven't found it in the records.

ALJ: Well, he says he takes it now. Who's prescribing that?

CLMT:

ALJ: Dr. he says is prescribing that for him and he's taking that.

ME: Well, I didn't find it in his notes and I looked specifically for it, but his notes are a lot of them are handwritten and he sometimes change route and works there.

CLMT: Atripla is what I take.

ALJ: What?

CLMT: Atripla.

ALJ: Well, he's in fact looking at his pill bottles, or pill bottle to see what the exact stuff is. So, I kind of missed that myself. What do you have there Mr. ██████████

CLMT: A-T-R-I-P-L-A.

ALJ: A, A what?

CLMT: Oh, I'm sorry. A-T-R-I-P-L-A.

ALJ: A-T-R-I-P-L-A, Atripla.

ME: Yeah, that so much I know.

ALJ: Yeah.

ME: Taking -- that's to try to counteract certain virus accounts that he has see.

ALJ: Yes.

ME: But those new blood runnings tell me I couldn't find in his chart because he had been starting them then and that's pretty common when you have a -- higher count if, than you actually had if he's being on it and obviously you'll find it.

ALJ: Okay.

ME: But hearing that still goes with what I said. I think he has acute days and I think he's basically a problem because his CD8 count is higher than the CD4.

ALJ: All right. Anything else from the doctor before I let him go?

ATTY: No, Your Honor.

ALJ: I guess these are the three cases you had today doctor, right?

ME: That's correct.

ALJ: Well, okay then we won't talk to you for a while.

ME: I'll talk to you tomorrow.

ALJ: Thank you.

ME: Okay.

ALJ: Okay. The doctor's testimony has been favorable to the claimant.

REEXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Can you handle your own money?

A He handles everything for me he takes care of me.

Q So, you may need help. That's something you need to go over with the PO then. I didn't know if your friend would help you handle, your mother, who, but somebody may need to help you if you're so sick you can't hardly manage those things.

A Yeah. He takes care of everything for me.

Q What about --

A If it wasn't for him --

Q -- is this apartment on the ground floor? Otherwise, you'd have a heck of a time.

A I wouldn't be able to get upstairs.

Q How'd you get in the building today?

A It was so hard.

Q Which ramp did you come up or sidewalk?

A We drove around a couple times, I couldn't find an entrance, so I -- there was a ramp and I just started walking up that and I had to stop twice walking up the ramp and I don't have a -- and a man came outside with an umbrella and just helped me walk in side.

Q We warned them before we moved to this building, this was not a handicapped friendly building. That cited one of at least the Rehabilitation Act that applies to Federal buildings. A long ramp has actually got six ramps and little platforms or flat spaces in the kingdom. So, that's their trick, you understand what I'm --

A Yeah. You've to be able to stop.

Q It's only 187 feet from the sidewalk level to the front door, but it's actually six ramps and each ramp is short enough to meet the Rehabilitation Act.

ATTY: And they've got that that huge one the size of a football field coming up the front.

ALJ: Yeah. And on the west -- on the east end they've got more steps and they had so many people falling on the steps and they took those out and put in another ramp and it's only got a couple of ramps, but again because it's got two ramps and step and a landing and the planning that they set out that gets by. Write your congressman. Write your senator.

CLMT: Yes, sir.

ALJ: I hope you never have to come up here again to think about the other people that are following you. I just help people, put that on the record, because it's disgusting. I was a union rep and we negotiated over details and I said, this is not going to be good and they said well its not affecting the employees. In other words, why do you care about it, you're representing the employees, the judges, doesn't affect what you do. I said well as a matter of fact it does affect me with my bad heart number one. Number two, are you telling me I shouldn't be concerned about our claimant's that are coming to these hearings on crutches, walkers, wheelchairs. Now, what kind of people do you think we are. Do you know who we deal with? Oh, I got upset about that.

ATTY: What was their response? Obviously, they didn't listen.

ALJ: No. No. I'm still not happy about it. Well, anything else I need to ask. Can you get out to any socializing events with people, like go to a church service --

CLMT: I get too sick. I get too scared that I'm going to lose

my bowels.

ALJ: -- family dinner or anything like that?

CLMT: My parents live in Moore and they come to my house every once in a great while, but I mean I don't get out.

ALJ: I just kind of realized is this address -- is that Purcell? That's in Purcell. Okay. I want to see if that's a neat area.

CLMT: It's beautiful over there.

ALJ: I have so much stuff I'd have to have a big house. I think because I have so much stuff, because you sometimes get wedded to your stuff. Okay. I think we've covered everything today. Anything else counselor?

ATTY: No, sir.

ALJ: All right then we'll close the hearing.

(The hearing closed at 11:54 p.m., on April 29, 2009.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED], before Administrative Law Judge Peter M. Keltch.

Lesley Taminelli/cm

Lesley Taminelli, Transcriber
Free State Reporting, Inc.

Caroline Musterman

Caroline Musterman, Proofreader
Free State Reporting, Inc.



[REDACTED]

August 11, 2008

Re: [REDACTED]
DOB: [REDACTED]
SS#: [REDACTED]

To Whom It May Concern:

[REDACTED] has been a patient of mine since 2004. He has severed from severe depression. As well, he has the complication of HIV disease, which has lead to multiple other difficulties.

He is on a large number of medications, many of which have side effects. He has severe peripheral neuropathy from the AIDS disease or the medications. He suffers from many abdominal complaints and chronic diarrhea, as well as fatigue secondary to the medications as well.

It is my opinion he cannot maintain gainful employment nor would he be capable of sitting for additional training or education.

If I can be of any further service, please contact me here at [REDACTED]

Sincerely,

[REDACTED]
M.D.
mas

[REDACTED]

Patient: [REDACTED]
DOB: [REDACTED]
Phone: [REDACTED]

Ordering Physician: [REDACTED], MD
Date: 4/20/2009

Regarding the above patient, he has been patient of mine for the last 6 months. He has a severe disabling form of perform neuropathy related to HIV. I understand that he has applied for disability and agree that he is an acceptable candidate and is not capable of working at this time.

Respectfully,
[REDACTED], MD
[REDACTED]

Office/Outpatient Visit

Visit Date: Fri, Oct 24, 2008 09:25 am

Provider: [REDACTED] Supervisor: [REDACTED]

Assistant: [REDACTED]

Location: [REDACTED]

Electronically signed by provider on 10/25/2008 11:10:02 PM
Printed on 03/04/2009 at 12:11 pm.

SUBJECTIVE:

CC:

He is a new patient.

HPI:

Problem to be addressed: Peripheral neuropathy:

This is the first visit to this office for this problem. The symptoms started more than 5 years ago. The symptoms, however, started worsening 3 years ago. The affected body area is the trunk and extremities diffusely. He characterizes the symptoms as moderate to severe in intensity, constant, aching, sharp, and numbness and tingling. He rates his pain overall at a 9 with 1 being mild and 10 being severe-the worst pain the patient has ever experienced. Aggravating factors include movement in general. Prior work-up has included the following: a CT scan, an MRI, and an X-ray. There have been no previous episodes. His current primary physician is Dr. [REDACTED]. His previous physician was Dr. [REDACTED]. The patient is referred by Dr. [REDACTED].

ROS:

CONSTITUTIONAL: Positive for fatigue, fever, night sweats and unintentional weight gain. Negative for chills or unintentional weight loss.
EYES: Positive for use of glasses or contacts. Negative for blurred vision.
E/N/T: Positive for nasal congestion and frequent rhinorrhea. Negative for ear pain, diminished hearing, hoarseness, sore throat or tooth pain.
CARDIOVASCULAR: Positive for dizziness. Negative for chest pain, palpitations or tachycardia.
RESPIRATORY: Positive for chronic cough, dyspnea and frequent wheezing. Negative for hemoptysis.
GASTROINTESTINAL: Positive for abdominal pain, acid reflux symptoms, anorexia, abdominal bloating, diarrhea and heartburn. Negative for constipation, hemorrhoids or melena.
GENITOURINARY: Negative for unprotected intercourse and impotence.
MUSCULOSKELETAL: Positive for arthralgias, back pain, joint stiffness and myalgias.
INTEGUMENTARY: Positive for rash. Negative for acne, atypical mole(s), extremely dry skin, jaundice, pruritis or wart(s).
NEUROLOGICAL: Positive for dizziness and headaches. Negative for fainting.
HEMATOLOGIC/LYMPHATIC: Positive for easy bruising. Negative for excessive bleeding, history of blood transfusion or lymphadenopathy.
ENDOCRINE: Positive for temperature intolerances and polydipsia. Negative for hair loss or polyphagia.
ALLERGIC/IMMUNOLOGIC: Positive for seasonal allergies and risk factors for HIV. Negative for perennial allergies or frequent URI-type illnesses.
PSYCHIATRIC: Positive for anxiety, depression, feelings of stress, difficulty concentrating and sleep disturbance. Negative for suicidal thoughts.

Past Medical History / Family History / Social History:

Past Medical History:

Aids/ HIV
Hyperlipidemia
Peripheral Neuropathy
Shingles

CURRENT MEDICAL PROVIDERS:
Primary care provider [REDACTED]
Interventional Pain Management: Dr.

Surgical History:

Hemorrhoid Sx

Family History:

Father: Congestive Heart Failure; CAD; Myocardial Infarction
Mother: Carotid Artery Stenosis; Congestive Heart Failure; Myocardial Infarction

Social History:

Occupation: Unemployed
Marital Status: Married (by common law)
Children: None

Tobacco/Alcohol/Supplements:

Tobacco: Cigarettes; Currently smokes 1/2 pack per day.

Allergies:

Compazine:
Imitrex:
Promethazine HCl:

Current Medications:

Atripla 600mg/200mg/300mg Tablet Take 1 tablet(s) by mouth daily
Lipitor 80mg Tablet Take 1 tablet(s) by mouth daily
Tricor 145mg Tablet Take 1 tablet(s) by mouth daily
Acyclovir 400mg Tablet Take 1 tablet(s) by mouth qid for 5 days
Albuterol 90mcg/1actuation Oral Inhaler 2 puffs prn
Norco 10mg/325mg Tablet 1 tablet(s) by mouth 5x a day
Promethazine HCl 50mg Tablet Take 1 tablet(s) by mouth q 4 to 6 hr
Trazodone HCl
Xanax 2mg Tablet

OBJECTIVE:

Vitals:

Current: 10/24/2008 9:25:26 AM
Wt: 231 lbs
BP: 120/76 mm Hg; P: 67 bpm; R: 16 bpm

Exams:

GENERAL: well developed; well nourished; well groomed; no apparent distress
EYES: lids and conjunctiva are normal; PERRL;
E/N/T: normal nose; normal external auditory canals and tympanic membranes; Oropharynx: normal mucosa, palate, and posterior pharynx;
NECK: Neck is supple with full range of motion; No lymphadenopathy; thyroid is normal to palpation;
RESPIRATORY: normal respiratory rate and pattern with no distress; rhonchi heard throughout; diffuse expiratory wheezes
CARDIOVASCULAR: normal rate; regular rhythm; normal S1 and S2 heartsounds with no S3 or S4
GASTROINTESTINAL: normal bowel sounds; no masses or tenderness; no organomegaly;
MUSCULOSKELETAL: Legs show diminished sensation hips down, hyperalgesia present as well. Trace edema bilaterally. He uses a walker. He can barely get up on the exam table. Diminished sensation from knees down
SKIN: no ulcerations, lesions or rashes; no peripheral extremity edema;

PSYCH: mental status: alert and oriented x 3; appropriate affect and demeanor; recent and remote memory are intact; good insight and judgement;

ASSESSMENT:

957.1 Neuropathic pain
729.5 Leg pain
272.2 Mixed hyperlipidemia
307.42 Chronic insomnia

ORDERS:

Meds Prescribed:

Refill of: Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain #180 (One Hundred and Eighty) tablet(s) Refills: 0
Chantix 1mg Tablet Starter pack 0.5mg bid x 10 days then 1mg bid #1 (One) packet(s) Refills: 0

PLAN:

Neuropathic pain

RECOMMENDATIONS:

Will continue current opiate management and increase Lortab to up to 6 daily until we see what lowering statins does to myopathy

Pain management recommendations:

Continue the following medications at the dosage on the medication list: Lyrica.

Leg pain

MEDICATIONS: See prescriptions ordered today on medication list
Refill of medication for this problem which is present in the medication list was given today.

FOLLOW UP: Schedule a follow-up appointment in 3 weeks.

Mixed hyperlipidemia

RECOMMENDATIONS:

I told him to go ahead and cut Lipitor and tricolor. Discuss with [REDACTED] further about discontinuing or changing to Vytorin. Would like to see what baseline pain is off statins

Chronic insomnia

RECOMMENDATIONS:

Seroquel samples given for anxiety and sleep. Titrate as necessary
Trial of Chantix for smoking cessation.

Prescriptions:

Refill of: Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain #180 (One Hundred and Eighty) tablet(s) Refills: 0
Chantix 1mg Tablet Starter pack 0.5mg bid x 10 days then 1mg bid #1 (One) packet(s) Refills: 0

[REDACTED]

Office/Outpatient Visit
 Visit Date: Thu, Nov 13, 2008 09:57 am
 Provider: [REDACTED] MD (Supervisor: [REDACTED], MD; Assistant: [REDACTED])
 Location: [REDACTED] Family Medicine

Electronically signed by provider on 11/13/2008 08:42:53 PM
 Printed on 03/04/2009 at 12:11 pm.

SUBJECTIVE:

CC:

He is an established patient. He is here to follow up on the following: foot pain and leg pain.

HPI:

His symptoms are about the same. He feels as though the symptoms are not controlled at this point. He characterizes the foot pain as moderate in intensity. He rates his pain overall at a 8 with 1 being mild and 10 being severe, the worst pain the patient has ever experienced. He needs the following medication refills: Norco. The following are medication changes from the last visit: Seroquel for sleep and changing tricor and stating to Vytarin. Patient states the Seroquel samples that were given to him worked great. He is sleeping better. Patient does state that he feels like he is coming down with flu like symptoms. He doesn't report much change since changing from Statins/Tricor to Vytarin. He does look quite a bit better. He reports much improved sleep since taking Seroquel at bedtime. He and his significant other get significant folliculitis rashes which is present today.

Past Medical History / Family History / Social History:

Past Medical History:

Aids/ HIV
 Hyperlipidemia
 Peripheral Neuropathy
 Shingles

CURRENT MEDICAL PROVIDERS:

Primary care provider: Dr. [REDACTED]
 Interventional Pain Management: Dr. [REDACTED]

Surgical History:

Hemorrhoid Sx

Family History:

Father: Congestive Heart Failure; CAD; Myocardial Infarction
 Mother: Carotid Artery Stenosis; Congestive Heart Failure; Myocardial Infarction

Social History:

Occupation: Unemployed
 Marital Status: Married (by common law)
 Children: None

Tobacco/Alcohol/Supplements:

Tobacco: Cigarettes; Currently smokes 1/2 pack per day.

Allergies:

Compazine:
 Imitrex:

Office/Outpatient Visit

Visit Date: Thu, Nov 13, 2008 09:57 am

Provider:

MD (Supervisor:

MD; Assistant:

Location: Family Medicine

Electronically signed by provider on 11/13/2008 08:42:53 PM
Printed on 03/04/2009 at 12:11 pm.

Current Medications:

Chantix 1mg Tablet Starter pack 0.5mg bid x 10 days then 1mg bid
Atripla 600mg/200mg/300mg Tablet Take 1 tablet(s) by mouth daily
Lyrica 150mg Capsules 1 cap three times daily by mouth for nerve pain
Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain
Acyclovir 400mg Tablet Take 1 tablet(s) by mouth qid for 5 days
Albuterol 90mcg/1actuation Oral Inhaler 2 puffs prn
Promethazine HCl 50mg Tablet Take 1 tablet(s) by mouth q 4 to 6 hr
Trazodone HCl
Xanax 2mg Tablet
Atropine Sulfate 0.4mg Tablet
Seroquel 100mg Tablet 1 tab at bedtime
Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain too be started

OBJECTIVE:

Vitals:

Current: 11/13/2008 10:08:02 AM
Wt: 235 lbs
BP: 118/80 mm Hg; P: 100 bpm

Exams:

GENERAL: well developed; well nourished; well groomed; no apparent distress
EYES: lids and conjunctiva are normal; PERRL;
E/N/T: normal nose; normal external auditory canals and tympanic membranes; Oropharynx: normal mucosa, palate, and posterior pharynx;
NECK: Neck is supple with full range of motion; No lymphadenopathy; thyroid is normal to palpation;
RESPIRATORY: normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or rubs;
CARDIOVASCULAR: normal rate; regular rhythm; normal S1 and S2 heartsounds with no S3 or S4
GASTROINTESTINAL: normal bowel sounds; no masses or tenderness; no organomegaly;
MUSCULOSKELETAL: Legs show diminished sensation hips down, hyperalgesia present as well. Trace edema bilaterally. He uses a walker. He can barely get up on the exam table. Diminished sensation from knees down
SKIN: mild folliculitis changes on the upper arms; no peripheral extremity edema;
PSYCH: mental status: alert and oriented x 3; appropriate affect and demeanor; recent and remote memory are intact; good insight and judgement;

ASSESSMENT:

356.8 Peripheral neuropathy
307.42 Chronic insomnia
957.1 Neuropathic pain
704.8 Folliculitis

PLAN:

[REDACTED]
Office/Outpatient Visit

Visit Date: Thu, Nov 13, 2008 09:57 am

Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 11/13/2008 08:42:53 PM
Printed on 03/04/2009 at 12:11 pm.

Peripheral neuropathy

Pain management recommendations:

Suboxone/Subutex explained in depth including the following:

1. Sublingual route of delivery.
2. Off label use for pain management.
3. It is less addictive in nature than traditional narcotics and weaning off is possible.

Follow up for Suboxone/Subutex induction at the patient's earliest convenience.

Will add MS Contin and wean lortab after he is on Suboxone

Prescriptions:

Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain #30 (Thirty) tablet(s) Refills: 0

Chronic insomnia

Pain management recommendations:

Continue the following medications at the dosage on the medication list: Seroquel.

Neuropathic pain

RECOMMENDATIONS:

Keep follow ups with Dr. [REDACTED]

Pain management recommendations:

Titrate Lyrica to maximum effective dose somewhere between 200-350mg daily divided TID. Monitor for side-effects including dizziness, blurred vision, fatigue, and leg swelling.

Folliculitis

RECOMMENDATIONS:

Use bactrim as prescribed for folliculitis and use low dose bleach solution in bath water.

[REDACTED]

[REDACTED]
Office/Outpatient Visit

Visit Date: Mon, Dec 22, 2008 08:19 am

Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 12/22/2008 08:59:22 AM
Printed on 03/04/2009 at 12:11 pm.

MEDICATIONS:

Refill of medication for this problem which is present in the medication list was given today.

LABORATORY: Labs ordered include the following:
Urine Toxicology Screening-Test Code 2126

Pain management recommendations:

No changes in Suboxone/Subutex therapy at this time. Continue current medication dosing schedule.
A pain management contract was filled out by the patient today. He is in agreement of the contents.
UDS positive for THC and he admits occasional use, especially since being out of pain medication. UDS must be clean next visit, he understands

FOLLOW UP: Schedule a follow-up visit in 1 month. Call prior with new or worrisome symptoms

Prescriptions:

Refill of: Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain #30 (Thirty) tablet(s)

Refills: 0

Refill of: Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain #180 (One Hundred and Eighty) tablet(s) Refills: 0

Orders:

80101 Urine Toxicology Screening; Test Code: 2126 (x10)

Chronic insomnia

MEDICATIONS:

Refill of medication for this problem which is present in the medication list was given today.

Prescriptions:

Refill of: Seroquel 200mg Tablet 1 tab at bedtime #30 (Thirty) tablet(s) Refills: 6

[REDACTED]
Office/Outpatient Visit

Visit Date: Mon, Jan 19, 2009 08:17 am

Provider: [REDACTED] MD (Supervisor: [REDACTED], MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 01/19/2009 09:40:27 AM

Printed on 03/04/2009 at 12:11 pm.

SUBJECTIVE:

CC:

He is an established patient. He is here to follow up on the following: Peripheral neuropathy and chronic pain syndrome.

HPI:

Problem to be addressed: Chronic pain syndrome symptoms:

His symptoms are improving. The change in condition is due to the following: due to increase in dose of pain meds. His chronic pain syndrome is nearly controlled at this point. He rates his pain overall at a 3 with 1 being mild and 10 being severe, the worst pain the patient has ever experienced. He characterizes the chronic pain syndrome as moderate in intensity, constant, just painful and difficult to describe, shooting/stabbing, burning, and needles. The patient needs the following medications refilled today: pain medications Suboxone. Currently he is taking the following dose of Suboxone: 2mg/0.5mg 1/8 tab 4 times per day. The following are medication changes from the last visit: Vytarin has been added. He has been experiencing the following adverse medication side-effects: dizziness, fatigue, nausea and vomiting. Compliance with treatment has been good; he takes his medication as directed and follows up as directed. Depression screening is positive for Agitation, anhedonia (decreased interest in socializing and sex), tendency towards indecisiveness, depressed mood and noticing mood swings w/ Suboxone. Having GI difficulties & would like referral for endoscope - was scheduled in the past & never done.

Past Medical History / Family History / Social History:

Past Medical History:

Aids/ HIV
Hyperlipidemia
Peripheral Neuropathy
Shingles

CURRENT MEDICAL PROVIDERS:

Primary care provider: Dr. [REDACTED]
Interventional Pain Management: Dr. [REDACTED]

Surgical History:

Hemorrhoid Sx

Family History:

Father: Congestive Heart Failure; CAD; Myocardial Infarction
Mother: Carotid Artery Stenosis; Congestive Heart Failure; Myocardial Infarction

Social History:

Occupation: Unemployed
Marital Status: Married (by common law)
Children: None

[REDACTED]

Office/Outpatient Visit
 Visit Date: Mon, Jan 19, 2009 08:17 am
 Provider: [REDACTED], MD (Supervisor: [REDACTED], MD; Assistant: [REDACTED])
 Location: [REDACTED] Family Medicine

Electronically signed by provider on 01/19/2009 09:40:27 AM
 Printed on 03/04/2009 at 12:11 pm.

Tobacco/Alcohol/Supplements:

Tobacco: Cigarettes; Currently smokes 1/2 pack per day.

Allergies:

Compazine:
 Imitrex:

Current Medications:

Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain
 Chantix 1mg Tablet Starter pack 0.5mg bid x 10 days then 1mg bid
 Seroquel 200mg Tablet 1 tab at bedtime
 Atripla 600mg/200mg/300mg Tablet Take 1 tablet(s) by mouth daily
 Lyrica 150mg Capsules 1 cap three times daily by mouth for nerve pain
 Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain
 Bactrim DS Tablet
 Atropine Sulfate 0.4mg Tablet
 Acyclovir 400mg Tablet Take 1 tablet(s) by mouth qid for 5 days
 Albuterol 90mcg/1 actuation Oral Inhaler 2 puffs prn
 Promethazine HCl 50mg Tablet Take 1 tablet(s) by mouth q 4 to 6 hr
 Xanax 2mg Tablet

OBJECTIVE:

Vitals:

Current: 1/19/2009 8:21:30 AM
 Wt: 230 lbs
 BP: 136/98 mm Hg; P: 120 bpm

Exams:

GENERAL: well developed; well nourished; well groomed; no apparent distress
EYES: lids and conjunctiva are normal; PERRL;
E/N/T: normal nose; normal external auditory canals and tympanic membranes; Oropharynx: normal mucosa, palate, and posterior pharynx;
NECK: Neck is supple with full range of motion; No lymphadenopathy; thyroid is normal to palpation;
RESPIRATORY: normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or rubs;
CARDIOVASCULAR: normal rate; regular rhythm; normal S1 and S2 heartsounds with no S3 or S4
GASTROINTESTINAL: normal bowel sounds; no masses or tenderness; no organomegaly;
MUSCULOSKELETAL: Legs show diminished sensation hips down, hyperalgesia present as well. Trace edema bilaterally. He uses a walker. Diminished sensation from knees down
SKIN: mild folliculitis changes on the upper arms; no peripheral extremity edema;
PSYCH: mental status: alert and oriented x 3; appropriate affect and demeanor; recent and remote memory are intact; good insight and judgement;

ASSESSMENT:

338.4 Chronic pain syndrome
 307.42 Chronic insomnia

Office/Outpatient Visit

Visit Date: Mon, Jan 19, 2009 08:17 am

Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 01/19/2009 09:40:27 AM
Printed on 03/04/2009 at 12:11 pm.

957.1 Neuropathic pain

787.02 Nausea

PLAN:

Chronic pain syndrome

Pain management recommendations:

Will start the following diuretic for peripheral edema control: Aldactazide to be initiated for peripheral edema. It was discussed that multiple medications used in pain management can cause peripheral edema especially when used in combination..

Duragesic patch will be started at this time and titrated accordingly. Monitor for side-effects as discussed.

FOLLOW UP: Schedule a follow-up visit in 1 month. Call prior with new or worrisome symptoms.

Prescriptions:

Duragesic 12mcg/hr Transdermal Patch Apply 1 patch(es) to upper torso as directed every 48 hours as needed for pain #3.(Three) 5 patch box Refills: 3

Chronic insomnia

Pain management recommendations:

As sleep hygiene is essential to good pain control, he is to continue current sleep medication.

Prescriptions:

Alprazolam 1mg Tablets, Extended Release 3 tablets by mouth daily for anxiety #90 (Ninety) tablet(s) Refills: 0
Aldactazide 50mg/50mg Tablet Take 1 tablet(s) by mouth daily for fluid retention. This is a diuretic. #30 (Thirty) tablet(s) Refills: 6

Neuropathic pain

Pain management recommendations:

The following medications are to be continued as listed on the current medication list in the chart or as directed: Lyrica.

Nausea

RECOMMENDATIONS:

Trial of Reglan for chronic severe nausea and GERD.

FOLLOW UP: Schedule a follow-up visit in 1 month. Call prior with new or worrisome symptoms.

Prescriptions:

[REDACTED]

[REDACTED]
Office/Outpatient Visit

Visit Date: Mon, Jan 19, 2009 08:17 am

Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 01/19/2009 09:40:27 AM

Printed on 03/04/2009 at 12:11 pm.

Reglan 10mg Tablet Take 1 tablet(s) by mouth 4 times daily for nausea. Before each meal and bedtime #120
(One Hundred and Twenty) tablet(s) Refills: 11

Zofran 4mg Tablet 1 tab every 4 hrs as needed for nausea #90 (Ninety) tablet(s) Refills: 3

[REDACTED]

[REDACTED]
Office/Outpatient Visit
Visit Date: Tue, Feb 17, 2009 08:18 am

1 of 3

Provider: [REDACTED] MD (Supervisor: [REDACTED], MD; Assistant: [REDACTED])
Location: [REDACTED] Family Medicine

Electronically signed by provider on 02/17/2009 09:06:57 AM
Printed on 03/04/2009 at 12:11 pm.

SUBJECTIVE:

CC:

He is an established patient. He is here for follow up.

HPI:

Problem to be addressed: Peripheral neuropathy symptoms:
His symptoms are worse. He characterizes the peripheral neuropathy as moderate to severe in intensity. He rates his pain overall at a 9 with 1 being mild and 10 being severe, the worst pain the patient has ever experienced. He needs the following medication refills: Norco, Seroquel, Xanax. Patient would like to discuss changing his Fentanyl patch or increasing it, it does not seem to be doing anything for the patient. He states he had a very bad month with his pain. He was also told to decrease his Xanax from 2mg tid to Xanax XR 1mg bid and is not doing well with this. Patient states he is more nauseated this month, his stomach medications are not helping and sometimes feels it makes it worse. Patient would like to discuss Marinol. He can get it for free with his through a state program.

Past Medical History / Family History / Social History:

Past Medical History:

Aids/ HIV
Hyperlipidemia
Peripheral Neuropathy
Shingles

CURRENT MEDICAL PROVIDERS:

Primary care provider: Dr. [REDACTED]
Interventional Pain Management: Dr. [REDACTED]

Surgical History:

Hemorrhoid Sx

Family History:

Father: Congestive Heart Failure; CAD; Myocardial Infarction
Mother: Carotid Artery Stenosis; Congestive Heart Failure; Myocardial Infarction

Social History:

Occupation: Unemployed
Marital Status: Married (by common law)
Children: None

Tobacco/Alcohol/Supplements:

Tobacco: Cigarettes; Currently smokes 1/2 pack per day.

Allergies:

Compazine:

[REDACTED]

Office/Outpatient Visit

Visit Date: Tue, Feb 17, 2009 08:18 am

Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 02/17/2009 09:06:57 AM

Printed on 03/04/2009 at 12:11 pm.

Imitrex:

Current Medications:

Aldactazide 50mg/50mg Tablet Take 1 tablet(s) by mouth daily for fluid retention. This is a diuretic.
 Alprazolam 1mg Tablets, Extended Release 3 tablets by mouth daily for anxiety
 Duragesic 12mcg/hr Transdermal Patch Apply 1 patch(es) to upper torso as directed every 48 hours as needed for pain
 Reglan 10mg Tablet Take 1 tablet(s) by mouth 4 times daily for nausea. Before each meal and bedtime
 Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain
 Zofran 4mg Tablet 1 tab every 4 hrs as needed for nausea
 Chantix 1mg Tablet Starter pack 0.5mg bid x 10 days then 1mg bid
 Seroquel 200mg Tablet 1 tab at bedtime
 Atripla 600mg/200mg/300mg Tablet Take 1 tablet(s) by mouth daily
 Lyrica 150mg Capsules 1 cap three times daily by mouth for nerve pain
 Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain
 Bactrim DS Tablet
 Atropine Sulfate 0.4mg Tablet
 Acyclovir 400mg Tablet Take 1 tablet(s) by mouth qid for 5 days
 Albuterol 90mcg/1 actuation Oral Inhaler 2 puffs prn
 Promethazine HCl 50mg Tablet Take 1 tablet(s) by mouth q 4 to 6 hr
 Xanax 2mg Tablet

OBJECTIVE:

Vitals:

Current: 2/17/2009 8:29:54 AM

Wt: 230 lbs

BP: 118/89 mm Hg; R: 18 bpm

Exams:

GENERAL: well developed; well nourished; well groomed; no apparent distress
EYES: lids and conjunctiva are normal; PERRL;
NECK: Neck is supple with full range of motion; No lymphadenopathy; thyroid is normal to palpation;
RESPIRATORY: normal respiratory rate and pattern with no distress; normal breath sounds with no rales, rhonchi, wheezes or rubs;
CARDIOVASCULAR: normal rate; regular rhythm; normal S1 and S2 heartsounds with no S3 or S4
GASTROINTESTINAL: normal bowel sounds; no masses or tenderness; no organomegaly;
MUSCULOSKELETAL: Legs show diminished sensation hips down, hyperalgesia present as well. Trace edema bilaterally. He uses a walker. Diminished sensation from knees down
SKIN: mild folliculitis changes on the upper arms; no peripheral extremity edema;
PSYCH: mental status: alert and oriented x 3; appropriate affect and demeanor; recent and remote memory are intact; good insight and judgement;

ASSESSMENT:

356.9 Peripheral neuropathy
 787.02 Nausea
 338.4 Chronic pain syndrome

[REDACTED]

Office/Outpatient Visit
Visit Date: Tue, Feb 17, 2009 08:18 am
Provider: [REDACTED] MD (Supervisor: [REDACTED] MD; Assistant: [REDACTED]
Location: [REDACTED] Family Medicine

Electronically signed by provider on 02/17/2009 09:06:57 AM
Printed on 03/04/2009 at 12:11 pm.

729.5 Foot pain

PLAN:

Peripheral neuropathy

MEDICATIONS:

We will consider Marinol for nausea if patient has 2 months of clean urine drug screens.

Pain management recommendations:

The following medications are to be continued as listed on the current medication list in the chart or as directed:
Fentanyl, Norco, Seroquel, and Xanax.

No changes in Suboxone/Subutex therapy at this time. Continue current medication dosing schedule.

FOLLOW UP: Schedule a follow-up visit in 1 month. Call prior with new or worrisome symptoms.

Prescriptions:

Refill of: Alprazolam 2mg Tablets, Extended Release 1 tab by mouth twice daily for anxiety #60 (Sixty) tablet(s)
Refills: 0

Nausea

RECOMMENDATIONS:

Call if the increase in Zofran does not help with his nausea.

Prescriptions:

Refill of: Zofran 8mg Tablet Take 1 tablet(s) by mouth tid #90 (Ninety) tablet(s) Refills: 3

Chronic pain syndrome

RECOMMENDATIONS:

Pt asked about testosterone injections for fatigue and his sex drive. He is having his blood work faxed to us and we will consider injections pending the review of his lab work.

Prescriptions:

Refill of: Duragesic 25mcg/hr Transdermal Patch 1 patch every 48 hours for pain #3 (Three) 5 patch box Refills: 0

Refill of: Suboxone 2mg/0.5mg Tablets, Sublingual 1 tab daily under the tongue for pain #30 (Thirty) tablet(s)
Refills: 0

Refill of: Norco 10mg/325mg Tablet Take 1-2 tablet(s) by mouth q6h prn pain #180 (One Hundred and Eighty) tablet(s) Refills: 0

[REDACTED]

[REDACTED]



[REDACTED] Family Clinic

PATIENT [REDACTED] DOB [REDACTED] ALLERGIES _____

MEDICAL HISTORY & PROGRESS NOTES DIAGNOSTIC PROC

9-12-07 *Copied Letter 3-07 addu current date for SST* _____

11-8-07 *Dictation from Aug 16, 2007* _____

[REDACTED] - August 16, 2007

- S: The 32-year old patient comes in reporting his peripheral neuropathy is severe. He is almost teary eyed. He cannot even finish one person's haircut. He feels frustrated and sad. His right shoulder hurts so bad he cannot lift it over his head or past midline. His left shoulder has full range of motion. He reports that he has nausea almost continuously. He is not sure if the PHENERGAN is working. He has tried OXYCONTIN AND AVINZA in the past. The ROBAXIN caused nausea and vomiting. He is just very upset today. Denies fever, chills, nausea, vomiting, or diarrhea. Past medical history extensively reviewed and placed in chart.
- O: General: Alert and oriented and in no apparent distress. HEENT entirely within normal limits. Funduscopic exam benign. Neck supple without adenopathy, megaly or bruit. Chest/Heart: Regular rate and rhythm without murmur, rub or gallop. Lungs are clear to auscultation. Extremities: No rashes, clubbing, cyanosis or edema. Abdomen is diffusely tender with no guarding or rebound. Normoactive bowel sounds. Neuro intact. Decreased range of motion, passive and active pain to his right shoulder. Decreased strength to hand grip.
- A:
 1. Peripheral neuropathy.
 2. AIDS.
 3. Neuropathy.
 4. Nausea and vomiting.
 5. Reportedly degenerative bone disease.
- P:
 1. PHENERGAN 50 mg one tablet p.o. q. six hours. LYRICA 75 mg b.i.d., XANAX 2 mg q. eight hours, LORTAB 10 mg q. four to six hours. I have talked to him about longer acting products and trying these at some point in the future.
 2. I will go ahead and write for him a walker. We will see if the walker does not help him with his mobility and decrease some of his pain.
 3. Follow up over the next three to four weeks.

[REDACTED] M.D. /cls

[REDACTED]
Office/Outpatient Visit

Visit Date: Mon, Jan 19, 2009 08:17 am

Provider: [REDACTED] MD (Supervisor: [REDACTED], MD; Assistant: [REDACTED])

Location: [REDACTED] Family Medicine

Electronically signed by provider on 01/19/2009 09:40:27 AM
Printed on 03/04/2009 at 12:11 pm.

SUBJECTIVE:

CC:

He is an established patient. He is here to follow up on the following: Peripheral neuropathy and chronic pain syndrome.

HPI:

Problem to be addressed: Chronic pain syndrome symptoms:

His symptoms are improving. The change in condition is due to the following: due to increase in dose of pain meds. His chronic pain syndrome is nearly controlled at this point. He rates his pain overall at a 3 with 1 being mild and 10 being severe, the worst pain the patient has ever experienced. He characterizes the chronic pain syndrome as moderate in intensity, constant, just painful and difficult to describe, shooting/stabbing, burning, and needles. The patient needs the following medications refilled today: pain medications Suboxone. Currently he is taking the following dose of Suboxone: 2mg/0.5mg 1/8 tab 4 times per day. The following are medication changes from the last visit: Vytarin has been added. He has been experiencing the following adverse medication side-effects: dizziness, fatigue, nausea and vomiting. Compliance with treatment has been good; he takes his medication as directed and follows up as directed. Depression screening is positive for Agitation, anhedonia (decreased interest in socializing and sex), tendency towards indecisiveness, depressed mood and noticing mood swings w/ Suboxone. Having GI difficulties & would like referral for endoscope - was scheduled in the past & never done.

Past Medical History / Family History / Social History:

Past Medical History:

Aids/ HIV
Hyperlipidemia
Peripheral Neuropathy
Shingles

CURRENT MEDICAL PROVIDERS:

Primary care provider: Dr. [REDACTED]
Interventional Pain Management: Dr. [REDACTED]

Surgical History:

Hemorrhoid Sx

Family History:

Father: Congestive Heart Failure; CAD; Myocardial Infarction
Mother: Carotid Artery Stenosis; Congestive Heart Failure; Myocardial Infarction

Social History:

Occupation: Unemployed
Marital Status: Married (by common law)
Children: None

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

[REDACTED]

(Claimant)

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Wage Earner)

[REDACTED]

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated February 21, 2008 (20 CFR 404.929 *et seq.* and 416.1429 *et seq.*). The claimant appeared and testified at a hearing held on April 29, 2009, in Oklahoma City, Oklahoma. Also appearing via telephone and testifying were Herbert P. Reinhardt, M.D., an impartial medical expert. The claimant is represented by [REDACTED] attorney.

The claimant is alleging disability since April 15, 2003.

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through March 31, 2005. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from April 15, 2003 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is severe or a combination of impairments that is severe (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do

other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is March 31, 2005.
2. The claimant has not engaged in substantial gainful activity since April 15, 2003, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).
3. The claimant has the following severe impairment(s): HIV infection and anxiety related disorder (20 CFR 404.1520(c) and 416.920(c)).
4. The severity of the claimant's impairment medically equals the criteria of section 14.08 *Human immunodeficiency virus (HIV) infection* of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-6p and 06-3p.

The evidence reveals the claimant has AIDS with painful peripheral neuropathy requiring pain medications (Exhibit 16F). Laboratory testing documents HIV infection (Exhibit 8F). Treatment records also reveal the claimant experiences fatigue and gastrointestinal difficulties related to illness and medication side effects (Exhibit 16F). In April 2009, [REDACTED] M.D., indicated the claimant has neuropathy related to HIV infection (Exhibit 15F; See also Exhibit 14F). [REDACTED] M.D., treats the claimant. Dr. [REDACTED]'s records document AIDS, neuropathy, nausea, and vomiting (Exhibit 9F). Dr. [REDACTED]'s records also document symptoms of anxiety for which medication has been prescribed and the need to be in an environment of low stress or demands (Exhibit 1F; See also Exhibit 8F). Likewise, Dr. [REDACTED]'s records document symptoms of depression for which medication has been prescribed (Exhibit 8F). Dr. [REDACTED]'s records also document prescription medication to treat headache pain.

Consultative evaluation by [REDACTED] Psy.D., in June 2007 yielded Axis I diagnosis of panic disorder with agoraphobia (Exhibit 3F). Consultative examination by [REDACTED] D.O., in December 2007 provided the following assessment: history of HIV; nausea, vomiting, and

[REDACTED]

diarrhea; neuropathy; dizziness; and tobacco abuse (Exhibit 10F). The claimant's impairment medically equals listing 14.08. [REDACTED] testified the claimant has AIDS with a lot of diarrhea and abnormal CD4 and CD8 levels. [REDACTED] testified AIDS becomes disabling because of the complications such as secondary infections and diarrhea. [REDACTED] noted the claimant has repeated episodes of diarrhea, peripheral neuropathy, and fatigue. [REDACTED] stated the claimant has fatigue which is documented by Dr. [REDACTED]'s records on almost every visit. He also noted the claimant has episodes of diarrhea which are documented. He also stated the claimant received a prescription for a walker in 2007.

The claimant alleges disability due to AIDS with extreme diarrhea, vomiting, and joint pain. The claimant reported he has extreme fatigue as well as nervousness (Exhibit 2E). The claimant testified he used a cane before the walker was prescribed. The claimant stated he loved working at the hair salon he opened with his mother but he is unable to do so. The claimant testified the frequent nausea and diarrhea began in 2003. The claimant testified he had fecal incontinence several times a week. The claimant testified he also has bad headaches and fatigue. The claimant stated he cannot walk from his bed to the couch without becoming winded. The claimant stated he had trouble walking into the building because he became winded. The claimant stated he cannot shower without assistance and has used a chair for quite some time because of balance trouble. The claimant stated he has insomnia for which he takes medication. The claimant testified he feels like he has the flu all of the time. He described intense pain in his legs with the sensation of needles sticking into his body. The claimant stated he has night sweats of such severity that his pain patch comes off. The claimant stated the nausea, vomiting, and feelings of sickness preclude him from working. The claimant stated he cannot drive. His mother takes him to the grocery store. He is also accompanied to doctor's appointments. The claimant stated he takes an anti-retroviral cocktail. The claimant stated he rarely leaves his home because he fears losing control of his bowels. The claimant stated he has not left the house unaccompanied in a number of years. He spends his days in bed or on the couch. The claimant's medications include those prescribed for treatment of AIDS, peripheral neuropathy, sleep, pain, nausea, and vomiting. Furthermore, he takes medications for asthma and infections (Exhibit 13E). The claimant's treatment records substantiate his allegations. The symptoms the claimant alleges verbally and in writing are consistently documented in his treatment records.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible. While the medical evidence of record is somewhat scant in correlation to the alleged onset date, the undersigned notes the claimant began falling and having fecal incontinence before quitting his business in the salon. The claimant testified he resides with a friend who pays for his medication with the agreement that he will reimburse the friend if benefits are awarded. The claimant stated he has memory problems due to his medications.

While the State agency medical consultants' physical assessments acknowledge HIV, peripheral neuropathy, fatigue, pain, and gastrointestinal distress, the opinions are given little weight because another medical opinion is more consistent with the record as a whole (Exhibit 4F; See also Exhibits 7F and 12F). Furthermore, the State agency consultants did not adequately consider the combined effect of the claimant's impairments. While severe impairments were

acknowledged, the State agency medical consultants failed to see the medical equivalence addressed by [REDACTED]

However, the State agency psychological consultants' mental assessments, that the claimant has severe mental impairment, are given great weight because they are consistent with the record as a whole (Exhibit 6F and 7F; See also Exhibit 11F).

5. The claimant has been under a disability as defined in the Social Security Act since April 15, 2003, the alleged onset date of disability (20 CFR 404.1520(d) and 416.920(d)). The medical evidence of record and the claimant's testimony suggest he may be physically incapable of managing or directing the management of his benefits. Appointment of a representative payee may be in the claimant's interest as determined by the Social Security Administration.

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on September 14, 2006, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since April 15, 2003.

Based on the application for supplemental security income filed on March 28, 2007, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since April 15, 2003.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

/s/ *Douglas S. Stults*

for Peter M. Keltch

Peter M. Keltch
U.S. Administrative Law Judge

July 15, 2009

Date

PMK:cjm



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
SSA ODAR Hearing Ofc
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: October 28, 2009

[REDACTED]

NOTICE OF DECISION FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is fully favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review the Decision on Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With the Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, and Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider with your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulation exists. Section 404.970 and Section 416.1470 of the regulation list these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

You're Right to Representation in an Appeal

You may have a lawyer or other person help you in any appeal you file with the Appeals Council. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with an appeal.

If you get someone to help you with an appeal, you or that person should let the Appeals Council know. If you hire someone, we must approve the fee before he can collect it. And if

you hire a lawyer or a non-attorney who is eligible for direct payment, we will withhold up to 25 percent of any past-due benefits to pay towards the fee.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is [REDACTED]. Its address is Social Security, 506 W Utah Ave, Chickasha, OK 73018-5852.

W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

Enclosures:
Form HA-L15 (Fee Agreement Approval)
Decision Rationale

cc: [REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF




(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income



(Social Security Number)

I approve the fee agreement between the claimant and his representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise accepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, RCALJ, Jurist Doctorate, Esquire
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc
Rm 460
1301 Young St
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

/s/ W. Howard O'Bryan, Jr.

W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

October 28, 2009

Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

[REDACTED]

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits¹, and Supplemental Security Income

[REDACTED]

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersignedⁱⁱ on a request for hearing dated August 17, 2009 (20 CFR 404.929 *et seq.* and 416.1429 *et seq.*). The evidence of record supports a fully favorable decision; therefore no hearingⁱⁱⁱ has been held (20 CFR 404.948(a) and 416.1448(a)). The claimant is represented by Verle A Coon, a non-attorney representative.

The claimant is alleging disability since January 1, 2007.

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2011. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from January 1, 2007 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is severe or a combination of impairments that is severe (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix I (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and

See Next Page

416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

ALLEGATION(S)

 **Impairments, Limitations and Pain - Initial Level**

Alleged Impairments:

Bad right hip, Bad right leg, Left shoulder injury, Diabetes, Neuropathy hands & feet, Poor memory, Blurred vision in right eye, Dizziness 2-3 times a day Pain & weakness in hip, leg, shoulder, Neuropathy in hands and feet, Poor memory, blurred vision right eye, Dizziness, Hip leg shoulder pain diabetic neuropathy poor memory

Limitations:

Unable to use my left arm & hand because of pain & stiffness in shoulder. Numbness in my hands which make it difficult to grasp objects & have fine manipulation. Neuropathy & pain in my feet makes it difficult to stand and walk for any length of time. Poor memory makes it difficult to concentrate on a task & complete it in an acceptable period of time & to follow instructions. Blurry vision makes it difficult to see. Dizziness makes it difficult to do anything for 10-20 min. 2-3 times a day. Pain in my shoulder, arm and hands make it difficult to lift and carry objects, use tools, and grasp objects. The pain in my hip and leg make it difficult to stand, walk and sit for any length of time. It is very difficult to squat, bend, crouch and climb.

Pain/Other Symptoms:

Yes

Impairments First Interfered With Ability to Work:

01/01/2007

Height:

5' 9"

Weight:

170 lbs.

Seen For Illnesses, Injuries, Conditions That Limit Ability to Work:

Yes

Seen For Emotional or Mental Conditions That Limit Ability to Work:

Yes

Client Remarks - 3368:

The claimant does not have medical insurance or funds to pay for medical treatment and medications. *This report was completed on the Internet using i3368PRO by: Organization Name: [redacted] Organization Type: Non-Attorney Representative, Contact Name: [redacted] Organization Address: [redacted] Contact Phone Number: [redacted] Internet medical form initiated on: 03/04/2009*

 **Effect on Work - Initial Level**

Ever Worked:

Yes

Working Now:

No

When Stopped:

12/31/2006

Stopped Working Because:

Because of my condition

Work After Impairment First Interfered: No

Impairments, Limitations and Effects - Reconsideration Level

Any Changes in Condition: Yes

Changes in Condition: He has more anxiety, tightness in chest, and more headaches

Date Occurred: 3/2009

Any New Illnesses or Injuries: No

Any New Physical or Mental Limitations: No

How Condition Affects Ability to Care for Personal Needs: no change

How Daily Activities Changed: no change

[REDACTED] has no financial means, he is not able to work and has no insurance or disposable property to sell for medical care. Please correct [REDACTED]

[REDACTED] received no correspondence from DDD after submitting the correct address and phone number to them numerous times. It is evidently wrong everywhere in the system. All correspondence has been going to [REDACTED] at the claimant's address. Thank You.* This report was completed on the Internet using i3441 (Public) by: Report Completer Name: [REDACTED] Report Completer Address: [REDACTED] Report Completer Phone Number: [REDACTED] Report Completer Email Address: null Internet medical form submitted on: 05/28/2009

Client Remarks - 3441:

Work Since Original Claim Filed: No

Submitting New Evidence: No

Reason Appeal Requested: HE IS TOO DISABLED TO SUSTAIN SUBSTANTIAL GAINFUL ACTIVITY FOR AN EXTENDED PERIOD OF TIME BECAUSE OF HIS MEDICAL CONDITIONS

Impairments, Limitations and Effects - Hearing Level

Any Changes in Condition: Yes

Changes in Condition: Dizziness causes balance loss daily, dizziness lasts for 30-60 minutes. Seizures occur 2 x a month.

Date Occurred: 5/29/09

Any New Illnesses or Injuries: No

Any New Physical or Mental Limitations: Yes

New Physical or Mental Limitations: Loss of concentration and anxiety attacks cause loss of memory and consciousness.

Date Occurred: 5/29/09

How Condition Affects Ability to Care for Personal Needs: He needs help putting on his shirt because he can not lift his arms over his head.

How Daily Activities Changed: no change

[REDACTED] homeless and has no one to care for him.* This report was completed on the Internet using i3441 (Public) by: Report Completer Name: [REDACTED] Report Completer Address: [REDACTED] Report Completer Phone Number: [REDACTED] Report Completer Email Address: null Internet medical form submitted on: 08/17/2009

Client Remarks - 3441:

Worked Since Filing For Reconsideration: No

Submitting New Evidence: In the future

Reason Appeal Requested: I AM TOO DISABLED TO SUSTAIN SUBSTANTIAL GAINFUL ACTIVITY FOR AN EXTENDED PERIOD OF TIME BECAUSE OF MY PHYSICAL AND MENTAL LIMITATIONS.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2011.
2. The claimant has not engaged in substantial gainful activity^{iv} since January 1, 2007, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).
3. The claimant has the following severe impairment(s): Primary: DIABETES MELLITUS^v (2500), etc., / Secondary: AFFECTIVE MOOD DISORDERS^{vi} (2960), Mental Retardation^{vii} (3180), etc., etc., etc., (20 CFR 404.1520(c) and 416.920(c)).
4. The above impairment(s) causes more than minimal functional limitations [see below ^{viii, ix, x, xi}]
5. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).

The medical evidence of record from a mental prospective shows a 43 yo male alleging physical problems, poor memory. Mental status exam noted claimant oriented in basic spheres, of well below average verbal ability. Psychotic symptoms are not in evidence. Memory functions are on the weak side, probably consistent with general level of verbal ability. In delayed recall he holds 2 of 5 cities after a 6-minute interval. Immediate memory for digits is on the weak side. In simple tasks he retains adequate concentration as in counting backward from 20, which he performs accurately, but not at a fast pace. He has difficulty grasping instructions for serial 3s addition and cannot go past the fourth number which was a struggle taking 26 second. He is unable to perform serial 7s subtraction. Asked toward the end of the exam to rate the degree of shoulder pain between 1 and 5 he replies that at the moment it is a 4 but up to that point he did not express any compliant. FO interviewer noted no problems with understanding, coherency, concentrating, talking or answering. Claimant shops for personal items, groceries, never used a check or saving account, can count change, fishes, spends time with friends in trailer park where he lives.

The claimant has the following degree of limitation in the broad areas of functioning set out in the disability regulations for evaluating mental disorders and in the mental disorders listings in 20 CFR, Part 404, Subpart P, Appendix 1: moderate restriction in activities of daily living, moderate difficulties in maintaining social functioning, moderate difficulties in maintaining concentration, persistence or pace, and one to two episodes of decompensation, each of extended duration.

6. The claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) and 416.967(a) except the credible evidence of record show the claimant is not functional at the sedentary level on a "regular and continuing" basis^{xii}.

Physically speaking^{xiii}, the medical evidence of record shows 43 yo male alleging bad r. hip, leg and pain, l. Shoulder injury, neuropathy in hands and feet, diabetes, dizziness, blurred vision, poor memory. VITALS: 69.4, 181.2#, BP: 170/110, P: 87, R: 16, VA:B:20/25. CHEST: Respiratory excursions are unlabored and quite, lungs clear to auscultation. CARDIO: heart rrr, w/o murmurs, rubs, gallops or clicks noted: ABD: soft, nontender w/normoactive sounds, no rebound tenderness, guarding or mass noted, no hepatomegaly, Ascites or abd Varices. EXTREMITIES: ROM of shoulder limited, tenderness on palpation of subacromial bursa of bil shoulders, no evidence of crepitus or effusion, ROM of elbows, wrists, hands WNL, no evidence of muscular atrophy or hypertrophy, () Tinel s and Phalen s sign, grip 4/5 symmetrical bil., ROM of hips, knees, ankles WNL, knees do no demonstrate any evidence of crepitus or effusion, no evidence of dependent edema or varicosities. NEURO: CNS II XII intact, DTR s 2+/symmetrical, no focal sensory deficits, Romberg s and Babinski (). MUSCULOSKELETAL:NML hand skills, fine tactile manipulation of objects nml, posture nml, ROM of axial spine in standing position appears WNL and w/o subjective discomfort, SLR () in seated/supine positions bil., heel/toe walking nml bil. GAIT: ambulates in a safe and stable gait at an appropriate speed w/o use of assistive devices.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-6p and 06-3p.

WAIS-IV given by Psychometrist

9/15/2009 Full Scale IQ 72, Working Memory 71; Processing Speed 74; His overall thinking and reasoning abilities exceed those of only approximately 3% of individuals his age; may experience difficulty in keeping up with his peers in a wide variety of situations that require thinking and reasoning abilities; working memory better than approximately 3 % of his peers; Processing Speed he performed better than approximately 4% of his peers;

DDD CE Exam, Dr.

3/27/09 Pain in both my shoulders and I can t raise my arms above my head; burning and tingling in both my feet and legs and I get dizzy from time to time; Diabetes Mellitus diagnosed in 2000, prescribed pills however he has not taken anything for this issue

/2 Work history is cross country truck driving, construction, and auto mechanic; BP 170/110; range of motion of shoulders is limited; tenderness to palpation of the subacromial bursa of both shoulders; Grip strength 4/5

/3 Diabetes mellitus, untreated, essential hypertension, untreated; diabetic neuropathy by history; probable bilateral subacromial bursitis, acute and chronic

/5 Shoulder abduction left in supination 90/150; right in supination 90/150; left forward elevation 90/150; right forward elevation 90/150

DDD Mental Evaluation by Dr. M

5/12/2009 Completed high school in special education; difficulty learning to read and required much individual attention for the teacher; stopped work about 4-5 years ago because of pain in his shoulder; has a haunted look, talks in small voice and intonation is mainly flat; expresses himself in simple but direct terms; indicated a depressed individual; well below average verbal ability, experiencing persistent shoulder pain and fatigue; describes fairly frequent strong heart palpitations, pain in the chest, which resembles attacks of anxiety; memory function is on weak side; immediate memory for digits on weak side; immediate recall of meaningful verbal material is much less than average; difficulty grasping the instructions for serial 3 s addition; not able to perform serial 7 s subtraction; attempting reverse recitation of the months reached October and cannot go beyond; scope of retained old information limited; cannot name any continents; judgment concerning social matters uninformed, slanted by impulsivity and excitement and erroneous; questioning concerning social relations brings out he has one trustworthy friend; fearful concerning his health; sleeps poorly; depressive disorder with pain, sub average verbal ability, complaints of shoulder pain; Axis V: GAF 52

Mental RFC

5/20/09 Markedly limited: ability to understand and remember detailed instructions; ability to carry out detailed instructions; ability to interact appropriately with general public

I. Basic Information

██████████ is a 43 year 8 month old male who filed for concurrent Title II and Title XVI disability benefits with a protective filing date of March 4, 2009. He has an admirable earnings record which extends his insured status until March 31, 2011. ██████████ has met his obligation to provide the available medical records in support of his contention that he is unable to perform work activity of Substantial Gainful Activity (SGA) magnitude in a competitive employment situation eight hours per day, five days per week, fifty weeks per year, (SSR 96-8p) and that his medical condition has been disabling since his onset date of January 1, 2007. His impairments significantly limit his ability to do basic work activities, have lasted longer than twelve months and are not expected to improve.

II. Determination of Disability

LISTING OF IMPAIRMENTS §12.05C

20 CFR 404.1526 states, For cases at the Administrative Law Judge or Appeals Council level, the responsibility for deciding medical equivalence rests with the Administrative Law Judge or Appeals Council.

However, this equivalence must first have the input by a medical expert appointed by the Commissioner before the United States Administrative Law Judge is authorized to make a finding of equivalency.

█ appears to have a mental condition which is equivalent to Listing 12.05C Mental Retardation with a Full Scale IQ of 72 and other mental and physical impairments imposing additional and significant work-related limitations of function.

The representative argues: █'s equivalency to Listing 12.05C is argued using POMS §DI 24515.056(D)(c) which provides that slightly higher IQ s (e.g. 70-75) in the presence of other physical or mental disorders that impose additional and significant work-related limitations of function may support an equivalent determination.

█ has a Full Scale IQ of 72 which falls in the 3rd percentile of individuals his age. He may experience difficulty in keeping up with his peers in a wide variety of situations that require thinking and reasoning abilities. His Working Memory subtest scored a 71, which is also in the 3rd percentile of his peers. He had difficulty with two tasks that demand mental control, that is, attending and holding information in short-term memory while performing some operation of manipulation^{xiv}.

The Social Security Consultative Examiner, who evaluated █ mental impairments, found weak memory function, weak immediate memory for digits, and less than average immediate recall of meaningful verbal material. He had difficulty grasping instructions to add by three s and was unable to subtract by seven s. He exhibited limited retained old information, was unable to name any continents, and had uninformed judgment concerning social matters.^{xv} With this information it is our opinion that the Disability Determination Division might have approved this case if they had further developed it by directing a CE to administer the WAIS-IV examination.

OTHER PHYSICAL AND MENTAL LIMITATIONS SECOND LEG OF LISTING §12.05C

█ has severe pain in bilateral shoulders and is unable to elevate his arms beyond shoulder level. The Social Security consultative examiner diagnosed probable bilateral subacromial bursitis which is acute and chronic. His grip strength was weak bilaterally. Range of motion examinations of bilateral shoulders reveal 90° out of 150° of abduction in supination and forward elevation.^{xvi} █ exhibits functional limitations as he requires help putting a shirt over his head, fixing his hair and trimming his beard.^{xvii}

The Social Security mental evaluation consultative examiner reports █ had a haunted look, talked in a small voice and had flat intonation which indicated a depressed individual. He described fairly frequent strong heart palpitations and pain in his chest which resembles attacks of anxiety. The physician evaluated him with a Global Assessment of Functioning (GAF) score of 52 which indicates moderate to severe symptoms and any moderate to severe difficulty in social or occupational functioning.

III. Conclusion

█ has an admirable work history in spite of his significant mental limitations. He worked jobs requiring physical labor ability until he was no longer able to perform these positions due to pain and loss of strength in his bilateral upper extremities. █ does not have the funds or medical insurance to seek medical care, but there seems to be ample medical evidence that his condition is equivalent to Listings of Impairments §12.05C.

However, the United States Administrative Law Judge is not at liberty to make an equivalency finding without the opinion of a medical expert of record, which the record does not have included therein. Section 404.1526

Accordingly, the United States Administrative Law Judge will conclude there is sufficient evidence by preponderance thereof to conclude that the claimant is functional below the sedentary level as provided in Social security Ruling 96-8p.

It appears that his residual functional capacity (RFC) is significantly compromised, taking into account the severe mental impairments and mental limitations imposed, combined with the significant limitations of his upper extremities. These conditions would reasonably reduce the occupational base at all levels of functioning and the unskilled work base would be significantly eroded. Work activity at the SGA level, at an acceptable production rate pace, on a sustained basis, (SSR 96-8p) would reasonably be precluded and beyond his capability.

TEST IS NOT THAT CLAIMANT IS ENTITLED TO THE BENEFIT OF DOUBT IN REGARD TO EACH DECISION MADE

The representative argues that the claimant is entitled to the benefit of doubt in regard to each decision made herein which is not true. The test is by the substantial evidence rule. (See SSR 82-34c. Sections 216(i) and 223(d) (42 U.S.C. 416(i) and 423(d) The regulations used to make disability determinations under titles II and XVI of the Social Security Act were recodified effective August 20, 1980. See 45 FR 55566-55634 (1980) (recodified in 20 CFR 404.1501-404.1598 and 20 CFR 416.901-416.996). The regulations cited in this ruling have been renumbered and rewritten as part of the recodification, but not substantively changed. See § 404.1560-§ 404.1569 and Rule 202.10, Appendix 2, Subpart P of Regulations No. 4.)

The Court in *Blalock v. Richardson*, 483 F.2d 773, 775 (4th Cir. 1972), stated:

The scope of judicial review by the federal courts is specific and narrow under §205(g) of the Act. That section provides that ' . . . the findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive . . .' The fact that the record as a whole might support an inconsistent conclusion is immaterial, for the language of § 205(g) precludes a *de novo* judicial proceeding and requires that the court uphold the Secretary's decision even should the court disagree with such decision as long as it is supported by 'substantial evidence.'

The only time such a test of doubt is applied is in a criminal case where the claimant must be found guilty beyond a reasonable doubt. Certainly a Social Security Disability case is not a criminal case, and clearly if any doubt had to be resolved in favor of the claimant, the test would be even greater than that provided in criminal cases. In a civil case, the test is by preponderance of the evidence, certainly not as strict a burden of proof as in a criminal case. A social security disability case is classed as a special proceeding and obviously the burden of proof is closer to that of a civil proceeding than it is to a criminal one.

Accordingly, the United States Administrative Law Judge must conclude that the claimant's representative assertions that all doubts must be resolved in favor of the claimant is simply put a misstatement of the law. To so hold would amount to a determination that no hearing was even necessary as all doubt would have to be resolved in the claimant's favor. That is not the law. If the substantial evidence rule is difficult to understand, many simply apply the preponderance of the evidence rule when arguing before an United States Administrative Law Judge, but it is noted that the courts apply the substantial evidence rule on appeal.

The Act places the burden of establishing entitlement on the disability benefit claimant. It does provide, however, for consultative medical examinations that may provide needed medical evidence of impairment.

When a claimant has established that he or she has a serious impairment that prevents return to past relevant work, courts hold that the burden shifts to the Agency to establish that there is other work that a person with such impairments and the claimant's vocational characteristics can perform.

These burden of proof rules are structured by a sequential evaluation process that lays out five distinct stages in the determination. Stages one through four lie in the zone where the burden is on the claimant. They include: (1) the preliminary question whether, despite impairments, the claimant is, in fact, engaged in substantial gainful activity, (2) the determination whether the claimant has an impairment of sufficient severity to interfere with the ability to perform work activities, (3) a comparison of the claimant's medical impairments with the listing of numerous conditions warranting a conclusion of disability, and (4) a determination whether the claimant has the ability to perform past relevant work. In stage five where the issue is whether there is other work that a person with the claimant's characteristics can do the burden is on the Agency but in any case covered by the Medical-Vocation Guidelines, the guidelines themselves may meet that burden. In cases not governed by the guidelines, there must be other evidence.

These five stages operate in sequence. Evidence that would be relevant or even dispositive at a later stage will not prevent a contrary decision at an earlier one. The regulations lay out this process in great detail. Social Security Ruling SSR No. 86-8 provides explanation.

Courts employing the substantial evidence standard have developed other more specific burden of proof or evidentiary rules, such as rules according special weight to medical testimony or reports coming from the claimant's treating physician.

It is certainly reasonable to conclude that [REDACTED] mental impairments would interfere with his ability to focus on a task and complete it in an acceptable period of time. A decision that he is disabled as alleged is in full compliance with the intent and purpose of Social Security Law and Regulations.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical consultants' physical assessments and psychological consultants' mental assessments are given little weight because the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

7. **The claimant is unable to perform any past relevant work (20 CFR 404.1565 and 416.965).**
8. **The demands of the claimant's past relevant work exceed the residual functional capacity.**
9. **The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563 and 416.963).**
10. **The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564 and 416.964).**
11. **The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568 and 416.968).**
12. **Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c), 404.1566, 416.960(c), and 416.966).**

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decision-making unless there is a rule that directs a conclusion of disabled without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decision-making (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the additional limitations so narrow the range of work the claimant might otherwise perform that a finding of disabled is appropriate under the framework of this rule. This conclusion is supported by Social Security Ruling(s) 96-9p.

13. The claimant has been under a disability as defined in the Social Security Act since January 1, 2007, the alleged onset date of disability (20 CFR 404.1520(g) and 416.920(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on March 4, 2009, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since January 1, 2007.

Based on the application for supplemental security income filed on March 5, 2009, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since January 1, 2007.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 12 months.

A determination to appoint a representative payee to manage payments in the claimant's interest is recommended.

/s/ W. Howard O' Bryan, Jr.

W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

October 28, 2009

Date

i

Title II of the Social Security Act is administered by the Social Security Administration. Title II appears in the United States Code as §§401-433, subchapter II, chapter 7, Title 42. http://www.ssa.gov/OP_Home/ssact/title02/0200.htm

ii

W. Howard O'Bryan, Jr., (0453), United States Administrative Law Judge, Social Security Administration Office of Adjudication and Review. Who may preside: 5 USC 556(b); Powers of the presiding officer: 5 USC 556(c); Special role of the Administrative Law Judge in Social Security: Heckler v. Campbell 461 U.S. 458, 471, 103 S.Ct. 1952, 1959, 1 S.S.R.S. 3, 10, CCH ¶ 14,585(1983) Dixon v. Heckler 811 F.2d 506, 510, 16 S.S.R.S. 279, 283 (10th Cir. 1987), James v. Bowen 793 F.2d 702, 704-705, 14 S.S.R.S.

87, 89-90. CCH ¶ 17,071 (5th Cir. 1986); Cannon v. Harris, 651 F.2d 513 (7th Cir. 1981); Coulter v. Weinberger 527 F.2d 224 (3rd Cir. 1975) (Administrative Law Judge must develop full record where claimant not represented by counsel); But see, Kane v. Heckler 731 F.2d 1216, 4 S.S.R.S. 340, CCH ¶ 15,324 (5th Cir. 1984), Dozier v. Heckler 754 F.2d 274 (8th Cir. 1985); Jordan v. Heckler 835 F.2d 1314, 20 S.S.R.S. 158, CCH ¶ 17,808 (10th Cir. 1987), (Administrative Law Judge must develop full record even if claimant represented by counsel); Social Security Ruling 71-23; Social Security Regulations 20 CFR §§ 404.944 and 416.1444, see also, 20 CFR 404.950, 404.951, 416.1450 and 416.1451; Social Security Act, §§ 305(b) and 1631(c)(1)

iii 20 Code of Federal Regulations Ch. III (4-1-06 edition) section 404.948: Deciding a case without an oral hearing before an administrative law judge. (a) *Decision wholly favorable.* If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the Administrative Law Judge may issue a hearing decision without holding an oral hearing.

iv

Vocational Information

Jobs Worked in the Last 15 years

Job Title	Type of Business	From	To
1. <u>Forklift operator</u>	Various	1990	2006
2. <u>Manual Labor</u>	Liquor/alcohol	Unknown	one week

Ticket/Program Information - Initial Level

Participate in Ticket program or another program? No

Ticket/Program Information - Reconsideration Level

Participate in Ticket program or another program? No

Ticket/Program Information - Hearing Level

Participate in Ticket program or another program? No

Additional Information

Working now? No

Stopped working because: Because of my condition

Stopped working when: 12/31/2006

Alleged Impairments: Bad right hip, Bad right leg, Left shoulder injury, Diabetes, Neuropathy hands & feet, Poor memory, Blurred vision in right eye, Dizziness 2-3 times a day Pain & weakness in hip, leg, shoulder. Neuropathy in hands and feet. Poor memory, blurred vision right eye. Dizziness. Hip leg shoulder pain diabetic neuropathy poor memory

v 9.08 Diabetes mellitus. With:

A. Neuropathy demonstrated by significant and persistent disorganization of motor function in two extremities resulting in sustained disturbance of gross and dexterous movements, or gait and Station (see 11.00C); or

B. Acidosis occurring at least on the average of once every 2 months documented by appropriate blood chemical tests (pH or pCO₂ or bicarbonate levels); or

C. Amputation at, or above, the tarsal region due to diabetic necrosis or peripheral arterial disease; or

D. Retinitis proliferans; evaluated under the visual impairment under the criteria in 2.02, 2.03, or 2.04.

ML-1100C provides: ... Persistent disorganization or motor function is the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which may occur singly or in various combination, frequency provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands, and arms.

ML-2.02 provides ... Impairment of central visual acuity. Remaining vision in the better eye after best correction is 20/200 or less.

ML-2.03 provides ... Contraction of the peripheral visual fields in the better eye.

A. To 10° or less from the point of fixation; or

B. So the widest diameter subtends an angle no greater than 20°; or

C. To 20 percent or less visual field efficiency.

ML-2.04 provides ... Loss of visual efficiency. Visual efficiency of the better eye after best correction 20 percent or less. (The percentage of remaining visual efficiency = the product of the percent of remaining visual efficiency and the percent of remaining central visual field efficiency.)

^{vi} 12.04 *Affective disorders*: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation.

The required level of severity for these disorders are met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:

a. Anhedonia or pervasive loss of interest in almost all activities; or

b. Appetite disturbance with change in weight; or

c. Sleep disturbance; or

d. Psychomotor agitation or retardation; or

e. Decreased energy; or

f. Feelings of guilt or worthlessness; or

g. Difficulty concentrating or thinking; or

h. Thoughts of suicide; or

i. Hallucinations, delusions, or paranoid thinking; or

2. Manic syndrome characterized by at least three of the following:

a. Hyperactivity; or

b. Pressure of speech; or

c. Flight of ideas; or

d. Inflated self-esteem; or

e. Decreased need for sleep; or

f. Easy distractibility; or

g. Involvement in activities that have a high probability of painful consequences which are not recognized; or

h. Hallucinations, delusions or paranoid thinking; or

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or

2. Marked difficulties in maintaining social functioning; or

3. Marked difficulties in maintaining concentration, persistence, or pace; or

4. Repeated episodes of decompensation, each of extended duration;

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or

2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

3 12.05 *Mental retardation*: Mental retardation refers to significantly sub average general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period; i.e., the evidence demonstrates or supports onset of the impairment before age 22. The required level of severity for this disorder is met when the requirements in A, B, C, or D are satisfied.

A. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded; OR

B. A valid verbal, performance, or full scale IQ of 59 or less; OR

C. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function; OR

D. A valid verbal, performance, or full scale IQ of 60 through 70, resulting in at least two of the following:

1. Marked restriction of activities of daily living; or

2. Marked difficulties in maintaining social functioning; or

-
3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration.

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MENTAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

NAME [REDACTED]	SOCIAL SECURITY NUMBER [REDACTED]
CATEGORIES (From 1C of the PRTF) 12.04	ASSESSMENT IS FOR: <input checked="" type="checkbox"/> Current Evaluation <input type="checkbox"/> 12 Months After Onset <input type="checkbox"/> Date Last Insured: _____ (Date) _____ (Date) <input type="checkbox"/> Other: _____ to _____ (Date) (Date)

I. SUMMARY CONCLUSIONS

This section is for recording summary conclusions derived from the evidence in file. Each mental activity is to be evaluated within the context of the individual's capacity to sustain that activity over a normal workday and workweek, on an ongoing basis. Detailed explanation of the degree of limitation for each category (A through D), as well as any other assessment information you deem appropriate, is to be recorded in Section III (Functional Capacity Assessment).

If rating category 5 is checked for any of the following items, you MUST specify in Section II the evidence that is needed to make the assessment. If you conclude that the record is so inadequately documented that no accurate functional capacity assessment can be made, indicate in Section II what development is necessary, but DO NOT COMPLETE SECTION III.

	Not Significantly Limited	Moderately Limited	Markedly Limited	No Evidence of Limitation in this Category	Not Rateable on Available Evidence
A. UNDERSTANDING AND MEMORY					
1. The ability to remember locations and work-like procedures.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
2. The ability to understand and remember very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
3. The ability to understand and remember detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
B. SUSTAINED CONCENTRATION AND PERSISTENCE					
4. The ability to carry out very short and simple instructions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
5. The ability to carry out detailed instructions.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
6. The ability to maintain attention and concentration for extended periods.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
7. The ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
8. The ability to sustain an ordinary routine without special supervision.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
9. The ability to work in coordination with or proximity to others without being distracted by them.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
10. The ability to make simple work-related decisions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>

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	Not Significantly Limited	Moderately Limited	Markedly Limited	No Evidence of Limitation in this Category	Not Rateable on Available Evidence
Continued – <u>SUSTAINED CONCENTRATION</u> <u>AND PERSISTENCE</u>					
11. The ability to complete a normal work-day and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
C. <u>SOCIAL INTERACTION</u>					
12. The ability to interact appropriately with the general public.	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input checked="" type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
13. The ability to ask simple questions or request assistance.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
14. The ability to accept instructions and respond appropriately to criticism from supervisors.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
15. The ability to get along with coworkers or peers without distracting them or exhibiting behavioral extremes.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
16. The ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
D. <u>ADAPTATION</u>					
17. The ability to respond appropriately to changes in the work setting.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
18. The ability to be aware of normal hazards and take appropriate precautions.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
19. The ability to travel in unfamiliar places or use public transportation.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>
20. The ability to set realistic goals or make plans independently of others.	1. <input checked="" type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>	4. <input type="checkbox"/>	5. <input type="checkbox"/>

x

III. FUNCTIONAL CAPACITY ASSESSMENT

Record the elaborations on the preceding capacities in this section. Complete this section **ONLY** after the **SUMMARY CONCLUSIONS** section has been completed. Explain your summary conclusions in narrative form. Include any information which clarifies limitation or function. Be especially careful to explain conclusions that differ from those of treating medical sources or from the individual's allegations.

Claimant can perform simple tasks with routine supervision, can relate to supervisors and peers on a superficial work basis, cannot relate to the general public, can adapt to a work situation.

xi

C. MANIPULATIVE LIMITATIONS

None established. (Proceed to section D.)

	LIMITED	UNLIMITED
1. Reaching all directions (including overhead) _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Handling (gross manipulation) _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Fingering (fine manipulation) _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Feeling (skin receptors) _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>

^{xii} Social security Ruling 96-8p reads in pertinent part:

Ordinarily, RFC is the individual's *maximum* remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis, and the RFC assessment must include a discussion of the individual's abilities on that basis. A "regular and continuing basis" means 8 hours a day, for 5 days a week, or an equivalent work schedule.

The combined effect of the claimant's symptoms results in physical limitations which deprive the claimant of the ability to do sustained work activities in an ordinary work setting on a regular and continuing basis (SSR 96-8p). She cannot engage in work activity 8 hours a day, for 5 days a week, or an equivalent work schedule (SSR 96-8p). The Administrative Law Judge therefore concludes that there are no jobs existing within the national economy which the claimant can perform in an ordinary work setting on a regular and continuing basis, that is: 8 hours a day, for 5 days a week, or an equivalent work schedule (SSR 96-8p).

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PHYSICAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

CLAIMANT: [REDACTED]	SOCIAL SECURITY NUMBER: [REDACTED]
NUMBERHOLDER (IF CDB CLAIM): [REDACTED]	[REDACTED]
PRIMARY DIAGNOSIS: DM, untreated	RFC ASSESSMENT IS FOR: <input checked="" type="checkbox"/> Current Evaluation <input type="checkbox"/> Date 12 Months After Onset:
SECONDARY DIAGNOSIS: ESSENTIAL HYPERTENSION, untreated	<input type="checkbox"/> Date Last Insured: _____ (Date) _____ (Date)
OTHER ALLEGED IMPAIRMENTS: DIABETIC NEUROPATHY, by hx [REDACTED]	<input type="checkbox"/> Other (Specify): _____

^{xiv} WAIS-IV administered by [REDACTED] Psychometrist, dated 9/15/2009

^{xv} Social Security Consultative Examination

^{xvi} DDD Consultative examination dated 3/27/2009 by [REDACTED]

^{xvii} Adult Function Report dated 3/13/2009



SOCIAL SECURITY ADMINISTRATION

Refer To [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: October 10, 2008

[REDACTED]

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

[REDACTED]

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)605-3000. Its address is Social Security, 2615 Villa Prom, Shepherd Mall, Oklahoma City, OK 73107.

W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

cc:


[REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

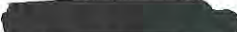
CLAIM FOR



(Claimant)

Period of Disability and Disability Insurance
Benefits

(Wage Earner)



(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, J.D.
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc
Rm 460
1301 Young St
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.



You should include the social security number(s) shown on this order on any papers that you send us.

*/s/ W Howard O' Bryan
Jr.*

W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

October 10, 2008
Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

(Claimant)

Period of Disability and Disability Insurance
Benefits¹

(Wage Earner)

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned² on a request for hearing dated August 25, 2008. The evidence of record supports a *fully favorable decision; therefore no hearing³ has been held* (20 CFR 404.948(a)). The claimant is represented by *Terry Gust, an attorney*.

The claimant is alleging disability since June 1, 2005.

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through June 30, 2009. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from June 1, 2005 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

1

Title II of the Social Security Act is administered by the Social Security Administration. Title II appears in the United States Code as §§401-433, subchapter II, chapter 7, Title 42. http://www.ssa.gov/OP_Home/ssact/title02/0200.htm¹¹¹

2

W. Howard O'Bryan, Jr., (0453), United States Administrative Law Judge, Social Security Administration, Office of Adjudication and Review. Who may preside: 5 USC 556(b); Powers of the presiding officer: 5 USC 556(c); Special role of the Administrative Law Judge in Social Security: *Heckler v. Campbell*, 461 U.S. 458, 471, 103 S.Ct. 1952, 1959, 1 S.S.R.S. 3, 10, CCH ¶ 14,585 (1983); *Dixon v. Heckler*, 811 F.2d 506, 510, 16 S.S.R.S. 279, 283 (10th Cir. 1987); *James v. Bowen*, 793 F.2d 702, 704-705, 14 S.S.R.S. 87, 89-90, CCH ¶ 17,071 (5th Cir. 1986); *Cannon v. Harris*, 651 F.2d 513 (7th Cir. 1981); *Coulter v. Weinberger*, 527 F.2d 224 (3rd Cir. 1975) (Administrative Law Judge must develop full record where claimant not represented by counsel); But see, *Kane v. Heckler*, 731 F.2d 1216, 4 S.S.R.S. 340, CCH ¶ 15,324 (5th Cir. 1984); *Dozier v. Heckler*, 754 F.2d 274 (8th Cir. 1985); *Jordan v. Heckler*, 835 F.2d 1314, 20 S.S.R.S. 158, CCH ¶ 17,808 (10th Cir. 1987), (Administrative Law Judge must develop full record even if claimant represented by counsel); Social Security Ruling 71-23; Social Security Regulations 20 CFR §§ 404.944 and 416.1444, see also, 20 CFR 404.950, 404.951, 416.1450 and 416.1451; Social Security Act, §§ 305(b) and 1631(c)(1).

3

20 Code of Federal Regulations Ch. III (4-1-06 edition) section 404.948: Deciding a case without an oral hearing before an administrative law judge. (a) *Decision wholly favorable*. If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the Administrative Law Judge may issue a hearing decision without holding an oral hearing.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix I (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant's date last insured is June 30, 2009.**
- 2. The claimant has not engaged in substantial gainful activity since June 1, 2005, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**
- 3. The claimant has the following severe impairment(s): Disorders of back⁴ discogenic and degenerative (7240), affective (mood) disorders (2960), etc., etc., etc.⁵,**

⁴ 1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitations of motion of the spine, Motorola's (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex losses and, if there is involvement of the low back, policy straight-leg raising test (sitting and supine);

OR

B. Spinal arachnoiditis, confirmed by operative notes or pathology reports of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every two hours;

OR

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic non- radicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B 2b.

5

Allegation(s)

Impairments, Limitations and Pain - Initial Level

Alleged Impairments: Disc degenerative disease. Depression. Anxiety.

Limitations: I AM UNABLE TO SIT OR STAND FOR PERIODS OF TIME.

Pain/Other Symptoms: Yes

Impairments First Interfered With Ability to Work: 05/31/2007

Height: 5' 4"

Weight: 200 lbs.

Effect on Work - Initial Level

Ever Worked: Yes

Working Now: No

When Stopped: 05/31/2005

Stopped Working Because: I STOPPED BECAUSE OF MY DISABILITY.

Work After Impairment First Interfered: No

Impairments, Limitations and Effects - Reconsideration Level

Any Changes in Condition: Yes

Changes in Condition: Pain in neck is increasing; am considering surgery to correct. Have scheduled EMG test with Dr. [REDACTED] for Aug. 2nd to determine condition of ulna nerve in left arm and consultation of the results with Dr. [REDACTED] Aug 9th. New pain in left lower back and left leg has started; have an appt. with Dr. [REDACTED] in Aug. 13th to consult with concerning second opinion regarding Dr. [REDACTED] opinion(s) and referral for alternative treatment for pain in lower back, including new pain in left leg and left side.

Date Occurred: 05/2007

Any New Illnesses or Injuries: No

Any New Limitations: Yes

New Limitations: I am still under the care of Dr. [REDACTED] for depression and anxiety; some days I cannot fully function due to lack of sleep or sense of foreboding. I am not always self-motivated to accomplish simple tasks such as light house work or errands. I can easily miss doctor appointments due to "dumb" things like locking myself out of the house, or simply forgetting what day it is. My physical limitations vary depending on the pain levels; some days I spend most of my time on "home therapy" such as ice packs and a tens machine prescribed by Dr. [REDACTED]. I was confined to a neck brace which limited my driving for the past six weeks; out of frustration I am "weaning" myself from it. It is not very convenient to be without the use of a car and that adds to the sense of uselessness. Severe headaches often result from neck pain and can lead to nausea or incapacitation.

Date Occurred: 05/07

How Condition Affects Ability to Care for Personal Needs: No effect

How Daily Activities Changed: My left hand continues to be numbed by the nerve being pinched or damaged, and I can't always use it to its full capability. My walking is now limited due to the new pain in my leg; the pain begins shooting into my hip and the leg "gives" and I experience the sensation that it may snap or break. Sleeping is difficult, as I have to change positions frequently to give relief to my back. I try to avoid taking Ambien as I do not want to become dependent.

Client Remarks - 3441: I am appealing the denial of benefits based on my belief. Not all of the medical information I provided was taken into consideration; my psychiatrist, previous neurosurgeon, and previous pain management physician were not listed as having entered evidence. While all medical evidence may not be crucial, the file should be complete to base your judgment on all facts. I also believe I should have the right to request a personal hearing; to make a fair assessment all interested parties should meet to discuss the details. I believe not all the facts can truly be written down and expressed, and you need to see and hear exactly what my daily life is like due to my physical conditions at this point in my life.

Work Since Original Claim Filed: No
Submitting New Evidence: No
Reason Appeal Requested: I AM STILL DISABLED

Impairments, Limitations and Effects - Hearing Level

Submitting New Evidence: No
Reason Appeal Requested: THE CLAIMANT WISHES TO APPEAL HER DATE OF ONSET. THE CLAIMANT HAS NOT WORKED SINCE 06/01/05. THE CLAIMANT'S MEDICAL RECORDS SUBSTANTIATE THE 06/01/05 ONSET DATE.

Initial Level

Source Type: Doctor/HMO/Therapist
Source Name: [REDACTED] MD
Address: [REDACTED]
First Visit: 03/13/2007
Last Visit: 06/07/2007
Next Appt: 06/28/2007
Reason for Visits: depression
Treatment: meds and counseling
Medications: CYMBALTA

Initial Level

Source Type: Doctor/HMO/Therapist
Source Name: [REDACTED] MD
Address: [REDACTED] PAIN MANAGEMENT
Voice Phone: 405-736-[REDACTED]
First Visit: 08/23/2006
Last Visit: 05/07/2007
Next Appt: ONGOING
Reason for Visits: PAIN MANAGEMENT
Treatment: MEDS

Medical Tests: BONE DENSITY
Date: 06/06/2007

[REDACTED] 4) - Initial Level

Source Type: Doctor/HMO/Therapist
Source Name: [REDACTED] MD
MEDICAL RECORDS
Address: [REDACTED]
Voice Phone: [REDACTED]
U.S. Fax: [REDACTED]
First Visit: 05/02/2007
Last Visit: 05/30/2007
Next Appt: as needed
Reason for Visits: NEUROSURGEON
Treatment: MEDS
Medications: ALEVE, ROBAXIN

Medical Tests: MRI
Body Part: SPINE
Date: 05/2007

[REDACTED] Initial Level

Source Type: Doctor/HMO/Therapist
Source Name: [REDACTED] MD
Address: [REDACTED]
Voice Phone: [REDACTED]
First Visit: 1999
Last Visit: 05/01/2007
Next Appt: na
Reason for Visits: pcp
Treatment: meds
Medications: Ambien, Compazine, Lipitor, Meclizine, Nasonex, Prilosec, Singulair, Xanax, ADVAIR, ASTELIN, HCTZ, TOPOMAX, VERAPAMIL

[REDACTED] Reconsideration Level

Source Type: Doctor/HMO/Therapist
Source Name: [REDACTED] MD
Address: [REDACTED] OKLAHOMA CITY, OK 73112
Voice Phone: 405-949-[REDACTED]
First Visit: 08/02/07
Last Visit: unk
Next Appt: unk
Reason for Visits: EMG
Treatment: EMG

Medical Tests: EMG
Date: 08/02/07

[REDACTED] Reconsideration Level

Source Type: Doctor/HMO/Therapist

Source Name: [REDACTED] MD

Address: [REDACTED]

First Visit: 03/13/2007

Last Visit: 07/19/07

Next Appt: 08/16/07

Reason for Visits: She is treating me for depression and anxiety.

Treatment: Verbal therapy

Medications: CYMBALTA

 [REDACTED] *Reconsideration Level*

Source Type: Doctor/HMO/Therapist

Source Name: [REDACTED] MD

[REDACTED] PAIN MANAGEMENT
Address: [REDACTED]

Voice Phone: 405-736-[REDACTED]

First Visit: 08/23/2006

Last Visit: 05/07

Next Appt: none

Reason for Visits: Epidural injections for pain in lower back right side.

Treatment: Epidural injections

 [REDACTED] *Reconsideration Level*

Source Type: Doctor/HMO/Therapist

Source Name: [REDACTED] MD

MEDICAL RECORDS

Address: [REDACTED]
SUITE 500

Voice Phone: [REDACTED]

U.S. Fax: [REDACTED]

First Visit: 05/02/2007

Last Visit: 05/30/07

Next Appt: 05/09/07

Reason for Visits: Numbness in left arm/hand and pain in neck.


Treatment: Prescribed Robaxin, TENS machine, neck brace, ENG test, MRI and X-rays to determine extent of disc disease.

Medications: ALEVE, ROBAXIN

Medical Tests: X-ray

Body Part: Head and neck

Date: 05/09/07

 [REDACTED] *Reconsideration Level*

Source Type: Doctor/HMO/Therapist

Source Name: [REDACTED] MD

Address: [REDACTED]

Voice Phone: [REDACTED]

The claimant has the following degree of limitation in the broad areas of functioning set out in the disability regulations for evaluating mental disorders and in the mental disorders listings in 20 CFR, Part 404, Subpart P, Appendix 1: mild restriction of activities of daily living; moderate difficulties in maintaining social functioning; moderate difficulties in maintaining concentration, persistence or pace; and one to two episodes of decompensation.

The claimant's mental impairment(s) does not satisfy the paragraph "C" criteria of the applicable mental disorder listing(s).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)).

5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) except the record shows the claimant is functional below the sedentary level for any sustained, continual or regular activity.

First Visit: 1999


Last Visit: 05/07/07

Next Appt: 08/13/07


Reason for Visits: Primary care


Treatment: All general ailments and specialized referrals.


Medications: Ambien, Compazine, Lipitor, Meclizine, Nasonex, Prilosec, Singulair, Xanax, ADVAIR, ASTELIN, HCTZ, Relpax, TOPOMAX, VERAPAMIL

 *consideration Level*

Source Type: Hospital/Clinic

Source Name: 

Address: 

Voice Phone: 

U.S. Fax: 

Next Appt: none

Outpatient First Visit: 05/09/07

Outpatient Last Visit: 06/6/07

Reason for Visits: MRI, x-rays or other tests only.

Treatment: testing

Medical Tests: Bone density scan

Date: 06/06/07

Medical Tests: MRI

Body Part: neck

Date: 05/09/07

(20 CFR 404.1520(c)).

See Next Page

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

[REDACTED] M.D.
Diplomat
American Board of Psychiatry and Neurology
American Board of Forensic Medicine
American Board of Disability Analysts
[REDACTED]
[REDACTED]
[REDACTED]

SOCIAL SECURITY DISABILITY EVALUATION REPORT

NAME: [REDACTED]

SSN: [REDACTED]

CLAIM #: [REDACTED]

DATE OF BIRTH: [REDACTED]

DATE OF EVALUATION: 04/12/2008

IDENTIFYING INFORMATION [REDACTED] is a fifty-five-year-old, Caucasian, married, unemployed female who comes in for a Social Security disability evaluation based on her mental health. Her identification was verified and the HIPAA form was completed before the interview. HISTORY: [REDACTED] reports that she has degenerative joint disease of her cervical and lumbar spine, is in constant pain since 2002, caused her to be unemployed since 2005. This is why she is seeking this disability benefit.

Historically she had her first psychiatric treatment at the age of twenty five. At that time she was treated with medication and counseling for depression. Since then until now she had not had any psychiatric hospitalization, never contemplated or attempted suicide, and denied substance abuse problem or treatment for it. Her mental healthcare is currently being provided by Dr. [REDACTED] [REDACTED] for the last about one and a half years and she is being treated for depression and anxiety (296.20 and 300.00) with medication and counseling.

On specific questioning [REDACTED] reports she is sad all the time for the quality of her current life; mad because she cannot work or care for her elderly mom and ailing father-in-law, and anxious about what is coming next. Lately her appetite has been poor, resulting in a fifty pound weight loss. She is sleeping about four hours at night, which has remained unchanged of late; she has a difficult time in going to sleep because her racing mind will not calm down and her ears are ringing all the time; she has a difficult time in maintaining her sleep because "anything and everything can wake me up", and depending on her night, her energy level and motivation are very variable. Spare time activity is working on scrapbooks or household chores. Social life involves church. Pleasure life involves watching television or listening to music. Sex life is "normal". Crying spells are intermittent in nature, anger may have explosive qualities, while she denies any death wish. PAST MEDICAL HISTORY: She reports to have degenerative joint disease of the lumbar and cervical spine, recurrent headaches, bronchial asthma, high cholesterol,

GERD, hysterectomy, had Cervical disc surgery in 1994, 1995, and 2007, ulnar nerve replacement surgery on the left elbow, and gallbladder surgery.

She reports to have been treated for Major Depression in the past, but never for Bipolar Disorder, Schizophrenia, Panic Disorder, or Post Traumatic Stress Disorder.

Review of her medical records suggests Dr. [REDACTED] has been treating her for Major Depression, recurrent and chronic pain syndrome.

CURRENT MEDICATIONS: Cymbalta 120 mg daily, Wellbutrin SR 1/2 tablet twice daily, Xanax on a pm basis, Ambien on a pm basis and Topamax twice daily. Her other medications include Lipitor, Prilosec, Advil, Astelin, Singulair, and Verapamil. She reports that she "sneaks in" Lortab from time to time for about the last two years and uses it for her pain management.

PERSONAL HISTORY: She was born in [REDACTED] and raised by both parents. She had an uneventful childhood and bachelor's degree in fine arts. She had her first job at the age of fifteen and last worked in 2005 when she was working as the office manager for four months, hated her boss, quit her job in 2005. Her first marriage ended in divorce after four months and is currently married to her second husband for the last twenty three years. She is living in Oklahoma City with her husband and is dependent financially on him.

FAMILY HISTORY: She has one brother and one sister. Her sister had alcohol problem. Her father died of suicide at the age of fifty and had alcohol problems.

MENTAL STATUS EXAM: [REDACTED] a fifty-five-year-old Caucasian female who is 5'4" tall and 185 pounds in body weight and came in two miles from her home to my office driving her... She looked much younger than her stated age, was reasonably well groomed, colorful in makeup and dress, jovial and did not appear to be in any acute distress.

-Speech had hyper-verbal qualities, but not pressured.

-Eye contact was 100%.

-Thought process was full of circumstantiality and tangentially, but no LOA or FOI.

-Thought content was devoid of any perceptual abnormalities.

-Mood was reportedly sad, mad, or anxious. However, she denies any features consistent with panic attacks or manic episodes.

-Affect was wide ranged and jovial.

-Insight appeared to be intact.

-Judgment has dependent and avoidant qualities.

-Cognitive testing reveals she was alert, oriented x 3 with intact registration, concentration, and abstract interpretation, but she had minor impairment of short term memory (she could recollect two out of three names in five minutes).

-Suicidal/homicidal ideas were denied today. DIAGNOSIS:

Axis I (1) Mood Disorder secondary to General Medical Condition

(2) History of Major Depression, recurrent Axis II Personality Disorder, NOS

Axis III History of degenerative joint disease of the lumbar and cervical spine, history of surgical treatment for her cervical spine x 3, recurrent headaches, bronchial asthma, and GERD

Axis IV Problems with employment and health

Axis V Current GAF: about 65-75

Last Year's GAF: not available

CONCLUSION: A Social Security Disability Evaluation was completed today for [REDACTED] [REDACTED] ed on clinical interview and review of her limited medical record. Strictly from the psychiatric standpoint, I believe she will meet the DSM-IV TR criteria for Major Depression. This could be a primary disorder, as reported by [REDACTED] or from her chronic pain (Mood Disorder secondary to General Medical Condition). This is a reasonably treatable psychiatric morbidity and can be aggressively treated with aggressive pharmacotherapy, psychotherapy, cognitive behavioral therapy, and vocational rehabilitation therapy. [REDACTED] reports she stopped working in 2005 because of chronic pain on the one hand and she hated her boss on the other hand. It is beyond my expertise to comment if such voluntary unemployment and/or chronic pain can be a reason for long term disability or not. Based on my cognitive testing of today I found her to be reasonably intact and hence believe she should be able to handle her o funds independently. [REDACTED] M.D. [REDACTED] School of Medicine - University of Oklahoma, Oklahoma City, OK.

55 year old female alleges depression. She has a history of depressive symptoms treated with meds. No history of hospitalizations for decompensation. Current MSE, the claimant reports sadness due to her quality of life because she cannot work and anxiousness about her future. Her appetite has been poor, has had sleep disturbance, very variable energy level and motivation. Crying spells are intermittent in nature, anger may have explosive qualities, while she denies any death wish. On exam she is jovial and did not appear to be in any acute distress. Speech had hyper—verbal qualities, but not pressured. Eye contact was 100%. Thought process was full of circumstantiality and tangentially, but no LOA and FOL. Thought content was devoid of any perceptual abnormalities. Mood was reportedly sad, mad and anxious. Affect was wide ranged and jovial. Insight appeared to be intact. Judgment has dependent and avoidant qualities. Cognitive testing reveals she is alert, oriented X3 with intact registration, concentration and abstract interpretation, but she had minor impairment of STM. SI/HI was denied. Cognitive testing reveals she is alert, oriented X3 with intact registration, concentration and abstract interpretation, but she had minor impairment of STM. SI/HI was denied. Claimant can relate to others on a superficial work basis. Claimant can adapt to a work situation.

55 year old female alleges DDD, neck pain, lower back pain, left ulnar nerve pain. Current evidence shows her s/p 10/07 cervical fusion and s/p 10/07 left ulnar nerve cubital tunnel decompression secondary to compressive peripheral neuropathy. 2/14/08 f/u claimant decreased pinprick around old incision site on left elbow. Strength is intact at 5/5 in all major muscle groups. Reflexes are intact. C—spine x-rays show good stable fusion construct.

[REDACTED]
Office/Outpatient Visit

Visit Date: Thu. Aug 9. 2007 11:23 am

Provider: [REDACTED] MD (Assistant: [REDACTED], MA)

Location: [REDACTED] MD

Electronically signed by provider on 0910312007 04:45:46 pm Printed on 0311212008 at 12:35 pm.

See Next Page

SUBJECTIVE:

[REDACTED] is a 54-year-old female. This is a 2 months follow-up visit. Chief concern is neck pain and left upper extremity pain

HPI: [REDACTED] returned today for flu evaluation. She has continued to have lifestyle limiting neck pain and L arm pain as well. She underwent a recent EMS which confirmed a left arm cubital syndrome without evidence of cervical radiculopathy. She also underwent a collar trial to evaluate concerns for adjacent segment disease at 04-5, 7-1. She had no clear changes in her symptoms while in the collar. Her pain continues to most aggravated with movement and activity. She has exhausted all reasonable conservative measures. She has no new problems.

ROS:

CONSTITUTIONAL: Positive for fatigue and night sweats. Negative for chills, fever, unintentional weight gain or unintentional weight loss.

EYES: Positive for use of glasses or contacts. Negative for blurred vision, eye drainage, eye pain or photophobia.

E/N/T: Positive for ear pain. Negative for diminished hearing, frequent epistaxis, hoarseness or sore throat.

CARDIOVASCULAR: Positive for dizziness. Negative for chest pain, palpitations, pedal edema, tachycardia or varicosities.

RESPIRATORY: Negative for recent cough and chronic cough.

GASTROINTESTINAL: Positive for acid reflux symptoms. Negative for abdominal pain, anorexia, abdominal bloating, Hemorrhoids or melena.

GENITOURINARY: Negative for dysuria, Hematuria, frequent UTI's and nocturia.

MUSCULOSKELETAL: Positive for back pain, joint stiffness and limb pain. Negative for Arthralgias or myalgias.

INTEGUMENTARY/BREAST: Negative for acne, atypical mole(s), extremely dry skin, fungal nail infection, rash, breast mass and breast tenderness.

NEUROLOGICAL: Positive for dizziness, headaches, memory loss, nausea, vomiting, paresthesias, tremor and weakness. Negative for ataxia, confusion, fainting, generalized pain, seizures, speech disorder or vertigo.

HEMATOLOGIC/LYMPHATIC: Positive for easy bruising. Negative for excessive bleeding.

ENDOCRINE: Positive for hot flashes, Negative for hair loss, temperature intolerances or polydipsia.

PSYCHIATRIC: Positive for anxiety, depression and sleep disturbance. Negative for mood swings, personality change or suicidal thoughts.

Past Medical History / Family History / Social History'

Past Medical History'

Hyperlipidemia: Hypercholesterolemia; dx'd in 2006:

Asthma: dx'd in 1994;

Gastroesophageal Reflux Disease: since 2000;

Rheumatoid Arthritis: since 2005;

Migraine Headaches: since 2002;

Depression/anxiety 1995

Surgical History:

Cholecystectomy: laparoscopic: 2000:

Hysterectomy: 1991:

ACDF 1995, 1992;

Foot surgery 2002:

Family History:

Father: Died at age 55; Cause of death was accidental death Tobacco/Alcohol/Supplements:

Tobacco: Currently smokes 1/2 to 1 pack per day. 45 years pack-year history. Non-drinker

Current Problems:

Arm pain

Neck pain

Immunizations:

None

Allergies:

Keflex:

Demerol HCl:

Codeine Phosphate:

Current Medications:

Advair Diskus 100/50 Inhalation Powder Inhale 1 puff(s) bid

Arabian 5mg Tablet Take 1 tablet(s) by mouth at bedtime pm

Astelin 137mcg/1 spray Nasal Spray 2 spray(s) in each nostril bid

Cymbalta 60mg Capsules Take 1 capsule(s) by mouth daily

Lipitor 20mg Tablet Take 1 tablet(s) by mouth daily

Nasonex 50mcg/actuation Nasal Spray 2 spray(s) in each nostril daily

Prilosec 20mg Capsules. Extended Release Take 1 capsule(s) by mouth day

Singulair 10mg Tablet Take 1 tablet(s) by mouth daily

Topamax 50mg Tablet Take 1 tablet(s) by mouth bid

Ultram 50mg Tablet Take 2 tablet(s) by mouth q 4 to 6 hr

Verapamil HG 120mg Capsules. Sustained Release Take 1 capsule(s) by mouth daily

Xanax 0.5mg Tablet 1 po qd pm

OBJECTIVE:

Vitals:

Current: 8/9/2007 11:25:52AM

Wt: 208.8 lbs

T: 98.3 F; BP: 116/156mm Hg; P: 96 bpm; R: 14 bpm

Exams:

GENERAL: Patient is a well developed, moderately obese, female, in no apparent distress. Head is norm cephalic and atraumatic. There is no evidence of CSF. Otorrhea. Rhinorrhea. There is no Battle Sign or Raccoon's eyes. There does not appear to be any facial asymmetries.

NECK: supple with atrophy of the para spinous muscles secondary to disuse secondary to her symptoms and the collar. **CHEST:** Chest rises equally and appears to be moving good air.

EXTREMITIES: warm without significant edema

NEUROLOGIC: The patient is awake, alert and oriented to person, place, time and situation. Cooperative with exam and mostly appropriate. There is no apparent communication deficits. Cranial nerves 2-12 appear grossly intact. Cerebellar function appears intact without asymmetries to finger to nose. Coordination and gait are unremarkable. Continues to have decreased pp.

Electronically signed by provider along the ulnar aspect of her L arm from the elbow extending to the 5th digit and medial aspect of the 4th digit. She has atrophy along the ulnar aspect of her

hand and 5th digit and continues to have weakness as previously described. Lab/Test Results EMG/NCS as previously described. No new films to review. See previous notes for imaging studies.

ASSESSMENT:

723.1 Neck pain

354.2 Ulnar nerve neuropathy

PLAN: [REDACTED] has perhaps two severe but different problems. She has lifestyle limiting neck pain with radiographic concerns of adjacent segment disease at C7-T1 and perhaps C4-5 as well. She has exhausted all reasonable conservative measures. She underwent a collar trial for partial immobilization with unclear results. She will repeat this trial with a CTO prior to her next visit. She also has a life style limiting L ulnar neuropathy with evidence on EMG of a cubital syndrome. She is will return as scheduling permits to discuss surgical options along with re-assessment of a collar trial. We discussed the findings in great detail and she expressed a good level of understanding.

Various physicians, treating and non-treating, have written that the claimant suffered from various medical problems and that the claimant has significant work restrictions. While the finding that a person is "disabled" under the provisions of the Social Security Act is an issue reserved to the Commissioner⁶ (SSR 96-5p1), opinions from any medical source on issues reserved to the Commissioner must never be ignored. The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner. If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

The fact that the claimant's treating physician, after extensive examinations and treatment, has formed such opinion as to the claimant's ability to perform sustained work activity was precluded strongly suggests a significantly limited residual functional capacity. Further, considering the claimant's diagnoses and multitude of prescribed medications tried, the undersigned finds that treating physician's opinion is well support and is not inconsistent with the other substantial evidence in the case record; thus, it is afforded controlling weight (20 CFR 404.1527(d)(2) and SSR 96-2p).

⁶ Under 20 CFR 404.1527(e), some issues are not medical issues regarding the nature and severity of an individual's impairment(s) but are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability. The following are examples of such issues:

1. Whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the listings;
2. What an individual's RFC is;
3. Whether an individual's RFC prevents him or her from doing past relevant work;
4. How the vocational factors of age, education, and work experience apply; and
5. Whether an individual is "disabled" under the Act.

The regulations provide that the final responsibility for deciding issues such as these is reserved to the Commissioner. 66

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment(s) could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The demands of the claimant's past relevant work exceed the residual functional capacity.

7. The claimant was an individual of advanced age on the established disability onset date (20 CFR 404.1563).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decision-making unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decision-making (SSR 85-15).

Even if the claimant had the residual functional capacity for the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "disabled" would be directed by rule 201.06.

11. The claimant has been under a disability, as defined in the Social Security Act, from June 1, 2005 through the date of this decision (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on May 16, 2007, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on June 1, 2005.

Workers' Compensation offset may be applicable.

/s/ W Howard O' Bryan

Jr.

W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

October 10, 2008

Date

EXPLANATION OF DETERMINATION

NAME OF CLAIMANT	W/E's NAME (IF CDB or DWB)	SSN	CLAIM TYPE
[REDACTED]		[REDACTED]	DIB

Medical Vocational Allowance: Claimant is a 55 yof alleging degenerative disc disease, anxiety and depression. CLaimant's AOD was 06-01-05. This claim is being allowed due to a combination of mental and physical allegations. Claimant's current mental residual capacity keeps her from returning to her past relevant work as an accountant which is highly skilled. Claimant's PRW was as an accountant, per DOT, Accountant, 160.162-018, which is considered as sedentary work with a SVP of 8. Claimant did this job from 1992 until 06-05. She reports no other employment. Claimant currently has the physical residual capacity to do light work. She can lift 10 lbs frequently and occasionally lift up to 20 lbs. She can stand and or walk about 6 hours in an 8 hour workday. She can sit about six hours in an 8 hour workday. She has no other physical restrictions. Due to claimant's depression, anxiety and personality disorder, she currently has the mental residual capacity to do simple and some complex instructions. Clmt has more than a 12th grade education, turned age 55 on 11-07, cannot do her past work due to mental restrictions and is limited to light work physically. Using vocational rule 202.06 as a guideline, clmt is found to be disabled as of turning age 55. Borderline Age criteria were considered, but as all her impairments were considered in the RFCs, there were no additional adversities to indicate an earlier onset could be found. Onset is established as of 11-2007, the day she turned 55.

MMS/jrs

[REDACTED]

DISABILITY DETERMINATION AND TRANSMITTAL

1. DESTINATION DDS <input checked="" type="checkbox"/> ODO <input type="checkbox"/> DRS <input type="checkbox"/> DQB <input type="checkbox"/> INTSPSC <input type="checkbox"/> S39		2. DDS CODE S39	3. FILING DATE 05/16/2007	4. SSN [REDACTED]	BIC (if CDB or DWB CLAIM) 00
5. NAME AND ADDRESS OF CLAIMANT (include ZIP Code) [REDACTED] OKLAHOMA CITY OK 73112			6. WE'S NAME (if CDB or DWB CLAIM)		
9. DATE OF BIRTH [REDACTED]			10. PRIOR ACTION PD <input checked="" type="checkbox"/> PT <input type="checkbox"/>		11. REMARKS [REDACTED] Recon filed 07/30/2007 Recon received 01/15/2008
12. DISTRICT-BRANCH OFFICE ADDRESS (include ZIP Code) SOCIAL SECURITY ADMINISTRATION SHEPHERD MALL 2615 VILLA PROM OKLAHOMA CITY, OK 73107			DO-BO CODE 783		
13. DO-BO REPRESENTATIVE		14. DATE		11A. <input type="checkbox"/> Presumptive Disability	11B. <input type="checkbox"/> Impairment

DETERMINATION PURSUANT TO THE SOCIAL SECURITY ACT, AS AMENDED

15. CLAIMANT DISABLED A. <input checked="" type="checkbox"/> Disability Began 11/2007 B. <input type="checkbox"/> Disability Ceased		16A. PRIMARY DIAGNOSIS DISORDERS OF BACK DISCOGENIC & DEGENERATIVE		BODY SYS. 01	CODE NO. 7240	16B. SECONDARY DIAGNOSIS AFFECTIVE MOOD DISORDERS		CODE NO. 2960	
17. DIARY TYPE MRP		MO. YR. 04/2015	REASON 7	18. CASE OF BLINDNESS AS DEFINED IN SEC. 1614(a)(2)(16)(i) A. <input type="checkbox"/> Not Disab. for Cash Bene. Purp. B. <input type="checkbox"/> Disab for Cash Benefit Purp. Beg.		19. CLAIMANT NOT DISABLED A. <input type="checkbox"/> Through Date of Current Determination B. <input type="checkbox"/> Through _____ C. <input type="checkbox"/> Before Age 22 (CDB only)			
20. VOCATIONAL BACKGROUND			OCC YRS.	EDYRS. 16 COLL 4+	21. VR ACTION A. <input type="checkbox"/> SCIN B. <input checked="" type="checkbox"/> SCOUT C. <input type="checkbox"/> Prev Rel		22. REG-BASIS CODE C1		
23. MED LIST NO.		24. MOB CODE	25. REVISED DET <input checked="" type="checkbox"/>	Initial A. <input type="checkbox"/>	Recon B. <input checked="" type="checkbox"/>	DHU C. <input type="checkbox"/>	ALJ Hearing D. <input type="checkbox"/>	Appeals Council E. <input type="checkbox"/>	U.S. District Court F. <input type="checkbox"/>
26. LIST NO. <input type="checkbox"/> A.		B.		C.		D.		E.	
27. RATIONALE <input checked="" type="checkbox"/> See Attached SSA-4268-U4/C4		<input type="checkbox"/> Check if Vocational Rule Met. Cite Rule <input type="checkbox"/>		28. A. <input checked="" type="checkbox"/> Period of Disability B. <input type="checkbox"/> Disability Period C. <input checked="" type="checkbox"/> Etab Beg 09/15/2005 AND D. <input type="checkbox"/> Continues E. <input type="checkbox"/> Term					

29. LTR/PAR NO.	30. DISABILITY EXAMINER-DDS 01 MMS [REDACTED]	31. DATE 05/21/2008	32. PHYSICIAN OR MEDICAL SPEC. SIGNATURE [REDACTED] D.O., M.P.H 12.	33. DATE 05/21/2008
32A. PHYSICIAN OR MEDICAL SPEC. NAME (Stamp, Print or Type) [REDACTED] DO MPH 12			32B. SPEC. CODE 12	

34. REMARKS [REDACTED] Claimant is capable per [REDACTED] report of 04-12-08. Change in onset			MULTIPLE IMPAIRMENTS CONSIDERED		
			34A. COMBINED MULTIPLE NONSEVERE-SEVERE		
			34B. COMBINED MULTIPLE NONSEVERE-NONSEVERE		
35. BASIS CODE	36. REV. DET. CODES	37. SSA REPRESENTATIVE		SSA CODE	38. DATE

EXPLANATION OF DETERMINATION

NAME OF CLAIMANT	W/E's NAME (IF CDB or DWB)	SSN	CLAIM TYPE
[REDACTED]		[REDACTED]	DIB

54 yo DIB female with 16 years of education alleges DDD, depression and anxiety. The mental portion of the claim was found to be non-severe. The physical portion of the claim was given an RFC for light work with limited use of the left hand. The claimant's PRW includes a position as an accountant, DOT 160.162-018 8/S which the clmt describes as sedentary on her application and as medium on the Work History Report. Therefore, the claim is denied to PRW both as the claimant describes it and as it is generally performed in the national economy.

BNK/bnk

[REDACTED]

DISABILITY DETERMINATION AND TRANSMITTAL

1. DESTINATION DDS <input checked="" type="checkbox"/> ODO <input type="checkbox"/> DRS <input type="checkbox"/> DOB <input type="checkbox"/> INTSPSC <input type="checkbox"/>		2. DDS CODE S39	3. FILING DATE 05/16/2007	4. SSN [REDACTED]	BIC (if CDB or DWB CLAIM) 00
5. NAME AND ADDRESS OF CLAIMANT (include ZIP Code) [REDACTED] OKLAHOMA CITY, OK 73112			6. WE'S NAME (if CDB or DWB CLAIM)		
9. DATE OF BIRTH [REDACTED]			10. PRIOR ACTION PD <input type="checkbox"/> PT <input type="checkbox"/>		11. REMARKS [REDACTED] DDS Received 06/15/2007
12. DISTRICT-BRANCH OFFICE ADDRESS (include ZIP Code) SOCIAL SECURITY ADMINISTRATION SHEPHERD MALL 2615 VILLA PROM OKLAHOMA CITY, OK 73107			DO-BO CODE 783		
13. DO-BO REPRESENTATIVE		14. DATE		11A. <input type="checkbox"/> Presumptive Disability	11B. <input type="checkbox"/> Impairment

DETERMINATION PURSUANT TO THE SOCIAL SECURITY ACT, AS AMENDED

15. CLAIMANT DISABLED A. <input type="checkbox"/> Disability Began B. <input type="checkbox"/> Disability Ceased		16A. PRIMARY DIAGNOSIS DISORDERS OF BACK DISCOGENIC & DEGENERATIVE		16B. SECONDARY DIAGNOSIS AFFECTIVE MOOD DISORDERS	16C. CODE NO. 2960
17. DIARY TYPE		MO./YR.	REASON	18. CASE OF BLINDNESS AS DEFINED IN SEC. 1614(a)(2)(216)(i) A. <input type="checkbox"/> Not Disab. for Cash Bene. Purp. B. <input type="checkbox"/> Disab for Cash Benefit Purp. Beg.	
20. VOCATIONAL BACKGROUND		OCC YRS.	EDYRS. 16 COLL 4+	21. VR ACTION A. <input type="checkbox"/> SC.IN B. <input checked="" type="checkbox"/> SC.OUT C. <input type="checkbox"/> Prev Ref	
22. REG-BASIS CODE H1	23. MED LIST NO.	24. MOB CODE	25. REVISED DET <input type="checkbox"/>	Initial A. <input checked="" type="checkbox"/> Recon B. <input type="checkbox"/> DHU C. <input type="checkbox"/> ALJ Hearing D. <input type="checkbox"/> Appeals Council E. <input type="checkbox"/> U.S. District Court F. <input type="checkbox"/>	
26. LIST NO. <input checked="" type="checkbox"/> A.		B.	C.	D.	E.
27. RATIONALE <input checked="" type="checkbox"/> See Attached SSA-4266-U4/C4		<input type="checkbox"/> Check if Vocational Rule Met. Cite Rule <input type="checkbox"/>			

28. A. <input type="checkbox"/> Period of Disability B. <input type="checkbox"/> Disability Period C. <input type="checkbox"/> Etab Beg _____ AND D. <input type="checkbox"/> Continues E. <input type="checkbox"/> Term _____				
29. LTR/PAR NO.	30. DISABILITY EXAMINER-DDS OB BNK [REDACTED]	31. DATE 07/23/2007	32. PHYSICIAN OR MEDICAL SPEC. SIGNATURE [REDACTED] MD 19	33. DATE 07/26/2007
32A. PHYSICIAN OR MEDICAL SPEC. NAME (Stamp, Print or Type) [REDACTED]				32B. SPEC. CODE 19

34. REMARKS			MULTIPLE IMPAIRMENTS CONSIDERED	
			34A. COMBINED MULTIPLE NONSEVERE-SEVERE	
			34B. COMBINED MULTIPLE NONSEVERE-NONSEVERE	
35. BASIS CODE	36. REV. DET. CODES	37. SSA REPRESENTATIVE	SSA CODE	38. DATE

ALJ Bench Decision Checksheet – Print Version

Claimant Name: _____ SSN: _____
DIB Application Date: October 18, 2008 Hearing Date: April 26, 2010
SSI Application Date: October 18, 2008 DWB Application Date: _____
Date Last Insured: March 31, 2008 Established Onset Date: March 12, 2008

EOD is AOD Amended AOD Current Appl. Date Prior Appl. Date
(SSI Only) (SSI Only)
 Prior Application Reopened Not Reopened

Prior Application Date(s): T2 T16

Reason for Reopening Within one year Good cause Grounds for reopening at any time

Work After Onset UWA Not SGA TWP

Severe Impairment(s) (singly or in combination): Shattered ankle tibia fibula 3 plates 15 screws cyst, depression, anxiety, asthma, sinus problems, etc., etc., etc.,

Impairment(s) MEETS Listing # 1.02A, 1.06, etc.,
 Impairment(s) EQUALS Listing # _____
 Child is Functionally Equal to Listings _____

Mrk Extr

Mrk Extr

- | | |
|--|--|
| <input type="checkbox"/> <input type="checkbox"/> 1. Acquiring and Using Information | <input type="checkbox"/> <input type="checkbox"/> 4. Moving about and Manipulating objects |
| <input type="checkbox"/> <input type="checkbox"/> 2. Attending and Completing Tasks | <input type="checkbox"/> <input type="checkbox"/> 5. Caring for Self |
| <input type="checkbox"/> <input type="checkbox"/> 3. Interacting with Others | <input type="checkbox"/> <input type="checkbox"/> 6. Health and Physical Well-being |

Mental Impairment Analysis (Part B)

Restriction of Activities of Daily Living None Mild Moderate Marked Extreme
Difficulties Maintaining Social Functioning None Mild Moderate Marked Extreme
Difficulties Maintaining Concentration-Pace None Mild Moderate Marked Extreme
Episodes of Decompensation None One or Two Three Four or More

Mental Impairment Analysis (Part C)

Permanent Subcommittee on Investigations

EXHIBIT #13

- 12.02, 12.03, or 12.04 w/ 2 yrs med. history & more than minimal limitation &
 - Residual disease process w/ marginal adjustment so that minimal changes cause decomp.
 - Current Hx. 1+years in highly supportive living arrangement w/ continuing need for same
 - Repeated episodes of decompensation, each of extended duration
- 12.06 (inability to function independently outside area of home)

Residual Functional Capacity:

- Full range of Sedentary Light Medium
- Less than full range of Sedentary Light Medium (describe below)
- Nonexertional only (describe below)

Function by Function: The credible evidence of record show the claimant is not functional at the sedentary level on a "regular and continuing" basis.

Rationale for Decision (Include Assessment of Credibility and Medical Opinions): See exhibits 13F through 17F.

- No PRW PRW but is unable to perform
- PRW: unskilled skilled/semiskilled but skills do not transfer to other occupations w/in RFC

Claimant "disabled" based on:

- Direct application of Medical-Vocational Rule # _____
- Framework of Rule # _____ based on VE testimony based on SSR# _____
- Section 204.00 Framework _____ based on VE testimony based on SSR# _____

Recommend Representative Payee

Medical reexamination in 3 to 6 Months

[Redacted]

months

Evidence of Workers Compensation Claim/Payment

Fee Agreement Approved-Representative Name: [Redacted]

Fee Agreement Denied-Reason:

ALJ: /s/ *W. Howard O'Bryan Jr.*

DATE: April 27, 2010

W. Howard O'Bryan Jr. (0453)



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: April 27, 2010

[REDACTED]
[REDACTED]
[REDACTED]

Notice of Decision –Fully Favorable

I carefully reviewed the facts of your case and made a fully favorable decision on your application(s) for a period of disability, disability insurance benefits, and Supplemental Security Income filed on October 18, 2008 and October 18, 2008. I stated the basis for my decision at your hearing held on April 26, 2010. I adopt the findings of fact and reasons that I gave at the hearing. Please read this notice of decision.

I found you disabled as of March 12, 2008. Your impairment or combination of impairments is so severe that it meets the requirements of one of the impairments listed in the Listing of Impairments.

If you would like more information about my decision, I can provide you with a record of my oral decision. You must ask for this record in writing. You may mail or bring your request to any Social Security or hearing office. Please put the Social Security number shown above on your request.

Another office will process my decision and decide if you meet the non-disability requirements for Supplemental Security Income payments. That office may ask you for more information. If you do not hear anything within 60 days of the date of this notice, please contact your local office. The contact information for your local office is at the end of this notice.

If You Disagree With My Decision

If you disagree with my decision, you may file an appeal with the Appeals Council.

How To File An Appeal

To file an appeal you or your representative must ask in writing that the Appeals Council review my decision. You may use our Request for Review form (HA-520) or write a letter. The form is available at www.socialsecurity.gov. Please put the Social Security number shown above on any appeal you file. If you need help, you may file in person at any Social Security or hearing office.

Please send your request to:

**Appeals Council
Office of Disability Adjudication and Review
5107 Leesburg Pike
Falls Church, VA 22041-3255**

Time Limit To File An Appeal

You must file your written appeal **within 60 days** of the date you get this notice. The Appeals Council assumes you got this notice 5 days after the date of the notice unless you show you did not get it within the 5-day period.

The Appeals Council will dismiss a late request unless you show you had a good reason for not filing it on time.

What Else You May Send Us

You or your representative may send us a written statement about your case. You may also send us new evidence. You should send your written statement and any new evidence **with your appeal**. Sending your written statement and any new evidence with your appeal may help us review your case sooner.

How An Appeal Works

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. Review can make any part of my decision more or less favorable or unfavorable to you. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

The Appeals Council may:

- Deny your appeal,
- Return your case to me or another administrative law judge for a new decision,
- Issue its own decision, or
- Dismiss your case.

The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council denies your appeal, my decision will become the final decision.

The Appeals Council May Review My Decision On Its Own

The Appeals Council may review my decision even if you do not appeal. If the Appeals Council reviews your case on its own, it will send you a notice within 60 days of the date of this notice.

When There Is No Appeals Council Review

If you do not appeal and the Appeals Council does not review my decision on its own, my

decision will become final. A final decision can be changed only under special circumstances. You will not have the right to Federal court review.

If You Have Any Questions

We invite you to visit our website located at www.socialsecurity.gov to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is (866)331-2207. Its address is:

Social Security
2615 Villa Prom
Shepherd Mall
Oklahoma City, OK 73107-2468

/s/ W. Howard O'Bryan Jr.

W. Howard O'Bryan Jr. (0453)
Administrative Law Judge

April 27, 2010
Date

Enclosures:
Form HA-L15 (Fee Agreement Approval)

cc:

[REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

CLAIM FOR

(Claimant)

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Wage Earner)

(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, Jurist Doctorate, Esquire
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc
Rm 460
1301 Young St
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

[REDACTED]

You should include the social security number(s) shown on this order on any papers that you send us.

/s/ W. Howard O'Bryan Jr.

W. Howard O'Bryan Jr. (0453)
Administrative Law Judge

April 27, 2010

Date

cc:

[REDACTED]
[REDACTED]
[REDACTED]

SOCIAL SECURITY ADMINISTRATION
OFFICE OF DISABILITY ADJUDICATION AND REVIEW

TRANSCRIPT

In the case of

(Claimant)

Claim for
Period of Disability
Disability Insurance Benefits
Supplemental Security Income

(Social Security Number)

(Wage Earner) (Leave blank
in Title XVI Cases or if
name is same as above)

Hearing Held

at

Oklahoma

(City, State)

on

April 26, 2010

(Month, Day, Year)

by

W. Howard O'Bryan, Jr.

(Administrative Law Judge)

APPEARANCES:

_____ the Claimant
_____ Attorney for Claimant
_____ Vocational Expert

INDEX OF TRANSCRIPT

In the case of:

Account Number

[REDACTED] Claimant

[REDACTED]

Page

Testimony of [REDACTED]

commencing 6

Testimony of [REDACTED]

commencing 25

(The following is a transcript in the hearing held before W. Howard O'Bryan, Jr., Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on April 26, 2010, at Oklahoma, in the case of [REDACTED] Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED] Attorney. Also present was [REDACTED] Vocational Expert.)

(The hearing commenced at 12:19 a.m. on April 26, 2010.)

ALJ: -- record. Are we on?

HA: We're on the record.

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: All right, then. Since I've got [REDACTED] handy, I'm not going to go through the usual opening statement. I'll just simply say that we have your claims for a Period of Disability, Disability Insurance Benefits, as well as Supplemental Security Income. Now, the issues are the same issues that are on the notice, which Mr. Smith could quote from memory if I asked him to. He's done this, like I say, a few hundred times before. I'm not going to go through them, because it's already in the record, anyhow. The claimant is alleging an onset date of March 12, 2008. She is last insured on March 31, 2008. We don't have an insured status problem to deal with, so long as we're dealing for -- with an injury before that date, anyhow, so that's it. I do notice that our first day of insurance, this is kind of strange, was January 1, 2008, which means that she was only insured for a period of approximately three months in there. That's a little unusual to have something like that.

ATTY: That is unusual.

ALJ: Isn't that, though? Well, at any rate, we have documents here, and they're marked up through 17F, and if there are no

objections, I'll receive those into the evidence as Exhibits 1A through 17F. Is that all right with you, [REDACTED]

ATTY: Yes, Your Honor. I will note, though, that when I got her disc up, there was a 24 listed, 24F.

ALJ: Okay, let's find out what we've got here and see

ATTY: Well, and so --

ALJ: -- what it is.

ATTY: -- when I tried to --

ALJ: I'm showing here that we had some additional documents but that, for some reason, they didn't put a number on them. And let's see what we've got here now so I know what it is. I can put numbers on them, as far as that's concerned, I suppose.

ATTY: Well, I'm not too concerned about that, Your Honor. The, the only thing was, I wanted to tell you that when I tried to open up 24F, it said the shortcut had been -- was malfunctioning --

ALJ: Um-hum.

ATTY: -- and they asked me if I wanted to eliminate the shortcut. And I thought, well, I'll just open it up. Well, I eliminated the shortcut, and 24F went away.

ALJ: Well, I'll tell you --

ATTY: So, I don't know what was in it.

ALJ: -- I don't know what it is. Here's what I'm showing. I do show here something that's -- let's see. What -- after 17F, what I show is three documents there, but neither one of them are shown as Exhibits. One of them is from the DDS which is a medical evaluation case analysis, and another medical evaluation case analysis which

apparently -- let's just see what one of them says, just for the heck of it. Usually, what they say is, I agree with something, you know.

ATTY: Yeah.

ALJ: Yeah. I reviewed all the medical evidence in the file, and the assessment of 4/2/9 is affirmed as written. In other words, somebody just decided they -- they're saying they agreed with what's been done before. Then, we have another, which is a DDS disability worksheet, which is nothing more than just a sheet that indicates some of the activities that have gone on. It shows by the, by the date as to certain things there. Doesn't give us any information at all, if you want to be honest about the thing; at least, it doesn't give me anything that I could use in, in this case. The document that we have here which is probably the last one is the one that we received on June 5, 2009, which is -- covers a period from April 6, 2009 to June 1, 2009, and it concerns basically some insomnia, a follow-up on insomnia and anxiety problems from _____, MD.

ATTY: Um-hum.

ALJ: Now, the one before that is a medical assessment record from _____ Clinic Orthopedic, et cetera, and it covers the period from November 3, 2008 to April 27, 2009, and we got --

ATTY: Um-hum.

ALJ: -- that in the Office on June 2, 2009.

ATTY: Um-hum.

ALJ: I see some items here, like a copy of evidence that's come from you where you're requesting that, and they don't give it an

Exhibit number, because it wasn't anything of significance other than --

ATTY: Right.

ALJ: -- the fact to be sure they sent something to you. And we've got some medical evidence of record from the [REDACTED] [REDACTED] which we got in on May 14, 2009, and let's see what it says. It doesn't show it as having an Exhibit number, but it will be admitted in here if -- anyhow, as -- I'm not too sure why it doesn't have a number. Oh, I think I know why now. It's a bill. Yeah, that's part of it there. Oh, know, wait. There is some medical there. This has, has to do with a right bulbar wrist ganglion, and they excised that at the time. And it'll be included, of course, as an Exhibit here. They told about all the -- how they cut, cut it open and all that. I, I don't like to read those too well, because they're just bad, you know, kind of gory, you know. I just don't like -- I read them, anyhow. That's about what we've got here. We've got an awful lot of other things from [REDACTED] (PHONETIC), and [REDACTED] (PHONETIC), and [REDACTED] (PHONETIC), and [REDACTED] (PHONETIC), and --

ATTY: Um-hum.

ALJ: -- a whole bunch of things, [REDACTED] (PHONETIC), so -- but they'll all be admitted in the --

ATTY: Yes, Your Honor.

ALJ: -- into evidence. Got a goodly amount of evidence here, 1F up through 17F, and I'm sure that we've got everything there. So, if there's no objections, we'll receive those into the evidence as

Exhibits 1A through 17F. Is that all right?

ATTY: No objections, Your Honor.

ALJ: Okay, they're in the record, then.

(Exhibits 1A through 17F, previously identified, were received into evidence and made a part of the record thereof).

ALJ: Now, do you know of any reason right off the bat that we need to hold the record open?

ATTY: I don't believe so, but she was nudging me. I think maybe she --

ALJ: Well --

ATTY: -- may have had some late medical --

CLMT: I had more surgeries.

ALJ: Well, if they have some late, we can always -- I'll tell you what. Let's constitute it as ready, but we'll back up on that in case we get surprised here during the course --

ATTY: Okay.

ALJ: -- of the hearing, and, and if it is, why, I can always depend on you to --

ATTY: You bet.

ALJ: -- get it for me, and we'll get on here. But we'll get that done. Every once in a while, we have problems like that come up, and it's usually concerning -- well, usually, the attorney's kind of a little surprised, because they just find out that the claimant went to the hospital, or went to the doctor this morning, or yesterday, or something like that, you know, and we just don't have the documentation. Okay. Let's do that, then. All right. Let's go ahead, then, and take some testimony; but first, let me get down to

the point of explaining. Ma'am, this is not an adversarial proceeding. It is inquisitorial. So, I probably will not be asking very many questions, because I leave that up to Counsel to do that. He knows the case better than I would, because I'm -- you know, obviously, he's had a chance to work on it. I've got a whole lot of cases before me, and I haven't had that chance. So, he'll be asking most all of the questions, and I'll try to be a good audience and take some notes on it. Now, if I ask any, it'll probably be for clarification only. It's not cross-examination, is what I'm trying to say. What you can do to help, and, of course, Counsel's probably already explained this to you, but just be sure to answer the questions that he asks as truthfully as you can; and if you don't know the answer, just tell him you don't know, and he'll know what to do with that. He's an experienced man, and has been through this a few thousand times before. All right, let's take some testimony. Mr. Smith, would you go right ahead?

ATTY: Okay.

(The claimant, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ATTORNEY:

Q Please state your name for the record.

A [REDACTED]

Q And, [REDACTED], how old are you?

A Thirty-three.

Q Could you state your birthday?

A [REDACTED]

Q Are you married?

A Yes.

Q Do you have children?

A Yes.

Q Do they live with you?

A Yes.

Q And how old are they?

A I -- my youngest is seven, the middle child is 12, and my oldest is 14.

Q Okay. What kind of educational background do you have?

A I have a high school diploma and 21 college credit hours.

Q I see. Do you have any vo-tech training?

A No.

Q Military training?

A No.

Q When was the last time that you worked?

A I worked for approximately 30 days in the end of October of 2009 to the end of November 2009.

Q So, you worked for 30 days. How, how many hours did you work per week, or per day, or per month, however you want to describe it?

A I worked no longer than a four-hour shift per day, and it was approximately eight to 10 hours, no more than 10 hours, a week.

Q I see. Well, prior to that little stint right there, when was the last time that you worked?

A 2006, in the summer of 2006.

Q And what kind of work did you do there?

A I worked in the hot food service part of [REDACTED]

Q I see, worked in the kitchen?

A Yes.

Q And were you a server, or a cashier, or what did you do there?

A There was no cashiering. I was cooking food, maintaining food, food temperatures, putting stuff out on the counters --

Q And how long did you --

A -- customer service.

Q How long did you work there?

A Approximately a month.

Q A month. When was the last time you worked somewhere for longer than a month?

A 2000 to 2001, probably.

Q I see. And how long did you work at that job?

A Approximately one year.

Q And what did you do there?

A I was a [REDACTED]

Q Prior to that?

A Prior to that, I worked --

Q Do you recall?

A About six months at [REDACTED] as a manager-in-training.

Q Did you do scheduling for other employees, and that kind of thing?

A Yes, hired employees, scheduling, and personal training, cleaning of tanning beds.

Q I see. And what year was that?

A 1999.

Q Um-hum. And prior to that? Did, did you have employment prior to that?

A Yes.

Q Where did you work?

A I worked at [REDACTED]

Q What did you do at [REDACTED]

A I was a [REDACTED] and, and then, was promoted to [REDACTED]
[REDACTED]

Q How long did you do that job?

A Approximately one year.

Q Did you have a job prior to [REDACTED]

A Yes. I worked at [REDACTED] --

Q Uh-huh.

A -- for approximately six months.

Q I see. And were those job requirements what we -- what, what one would anticipate from a [REDACTED]?

A Yes.

Q And prior to that, where did you work?

A Prior to that, I worked fast food at [REDACTED], and
[REDACTED]

Q And, and when was that job?

A That started when I turned 16 to 18.

Q I see, okay. That pretty well describes your work history?

A Yes.

Q Were you working when you had your accident?

A No.

Q You weren't working? When, when did you have your accident?
Why don't we talk about that for a minute.

A March 12, 2008.

Q And what happened to you?

A I was putting some boxes up in the attic, and some Valentine's decorations, and was getting boxes down for Easter, and misstepped, and stepped into sheet rock, and landed on my right foot, and then hit my head.

Q And what kind of injuries did you sustain?

A Pilon fracture to the tibia fibula, and a shattered ankle.

Q And did that require surgery?

A Yes, more than one.

Q Um-hum.

ALJ: I note here that she did shatter her ankle and tibia fibula. She's got three plates in there, and 15 screws, and she had some cyst problems since then. The reason I've gotten familiar with that, I just got through breaking my leg, and I had the --

ATTY: Oh, my Lord.

ALJ: -- my -- only mine wasn't as bad as hers. I had that they had to redo the joint there on mine, and they put five screws with a plate in the fibula side; and on the tibia side, why, they had to put, put two long screws in the thing to rebuild that joint, you know. In fact, that's the reason I'm using this right now, a little -- I've been very fortunate in that I, I was only off, oh, about, oh, less than six weeks on the thing, and I've -- it's worked out very well for

me. But she, she had a real bad job. She's got three plates, and 15 screws, and a whole bunch of stuff, and has had some cysts, even, after that.

CLMT: No --

ALJ: Go right ahead, though.

ATTY: Okay.

CLMT: -- I don't have those. They took those out --

ATTY: Right.

CLMT: -- (INAUDIBLE):

BY ATTORNEY:

Q Well, we'll let you tell, tell us about that, but -- so, you broke your ankle, you had surgery, and plates were applied?

A Initially, I had an external fixator.

Q Right.

A And two weeks later, they went in and put in three plates and 15 screws.

Q In your ankle, in the joint?

A In the ankle joint and the leg, the leg bones, tibia fibula.

Q Uh-huh. And you've since had other surgeries, have you not?

A Correct.

Q How many surgeries have you had altogether?

A I've had eight -- just on my leg?

Q Yeah.

A On my right leg, I've had two surgeries.

Q Two surgeries?

A Three surgeries.

Q And the last one was --

A Sorry.

Q -- to remove the hardware?

A The last one was to remove the initial three plates and 15 screws, and fuse -- I don't know which is the bigger bone of the leg, the tibia or fibula. But they fused the bigger of the leg bone to my top of my foot bone, because I have no ankle or cartilage left. And the other bone is just left free-falling from my knee, and I now have two plates and 16 screws.

Q Is -- the bone that's free-falling, is it attached to anything?

A The top of it's attached to my knee -- or --

Q But the bottom is not attached?

A No, it's not.

Q And when you say, fixated, so, your ankle's been fused?

A Correct.

Q So, your joint doesn't work at all? Well, I guess it works --

A I don't --

Q -- well enough for you to walk, but not in the normal way one would --

A I don't have range of motion left or right. I have some range of motion as far as flexion this way. However, I have to be very careful on it, and they forewarned me that I was really lucky to have the top of the foot bone left, that there could be -- if I wear that down and have to have it fused to the bottom of the foot bone, I will have no range of motion in it at all.

Q I see. You mentioned you had other surgeries. What -- are they related to this?

A There are other injuries --

Q Right.

A -- not on the -- I was in a cast at the time with some of my other surgeries.

Q I see.

A And the cyst, the cyst is related to this.

Q The cyst in the wrist, or --

A Correct, the right wrist.

Q How about the -- your left knee? What happened there?

A My left knee, I'd had the last -- I'd had the fusion surgery in December 2009; and in February -- or, I mean, the fusion surgery in December of 2008. And in February of 2009, I had a mishap in the bathroom, and I was still in a cast on the right ankle, and my left ACL was torn, and the MCL was very strained.

Q So, you had surgery for that, as well?

A Two, two surgeries.

Q Two surgeries on your ACL?

A Um-hum.

Q Did they get that back to where it functions normally?

A No.

Q I see. What kind of problems do you have with your ACL on your left knee?

A I have swelling, limited range of motion, a lot of pain, popping, I can't climb or bend the same as before, I have --

Q With your left knee?

A Yes. I have metal that pops from underneath the skin. I have swelling and fluid retention.

Q They attached your ACL back with some sort of metal device?

A Yes. It was a new device. And then, it required a second surgery, because the metal was actually starting to break through the skin, so they had to clip part of the metal off.

Q I see. Do you have pain associated with your ankle?

A Yes.

Q Is it, is it constant?

A It's every day, yes.

Q Do you have good days and bad days?

A Yes.

Q How many good days do you think you have in a week or a month, however you'd like to describe it?

A On a good week, three days.

Q And so, the rest are bad? Is that what I'm hearing?

A Yes.

Q If you had to rate your pain level, on a good day, how would you rate it?

A A four.

Q If one being the least, 10 being the most?

A A four.

Q And how about on a bad day?

A Seven and a half, eight.

Q On those bad days, is the pain distracting?

A Yes.

Q Do you -- would you describe it as debilitating?

A Yes.

Q Can you like read a newspaper on those days, and kind of report back to us what it says?

A No.

Q What kind of activity level do you have on a good day?

A My -- low.

Q Low?

A Um-hum.

Q Do you do housework and that kind of stuff?

A I load the washing machine, and I have a 4-pound dog. I feed and water her.

Q Okay. How far can you walk? You know, on a good day, when your activity level's a little better, how far can you walk?

A About four houses down from my house.

Q Is that like -- could you put that in terms of blocks, or yards, or feet?

A Blocks, it would be one-fourth of a block.

Q About a fourth of a block? Do you have any kind of symptomology as a result of activity? Oh, does your pain level get worse with activity?

A Yes.

Q After activity, what do you do for kind of relief?

A I have to lay on my back and elevate my leg above my heart. And I take medication.

Q Pain medication?

A Yes, sir.

Q When you have -- when you are active, do you get any swelling with your ankle?

A My ankle and my foot swell.

Q Does it swell a little bit or a lot? How could you describe --

A No.

Q -- that for us?

A It swells, it swells grossly, to the point to where I cannot put on a regular shoe.

Q Is it painful when it swells?

A Yes.

Q And for relief, you -- what do you do?

A I have to lay on my back and have my foot elevated.

Q For how long?

A Approximately 30 minutes to two hours.

Q Do you lay in bed, or on a sofa, or a recliner? How do you do that?

A Either the couch or the bed. Typically, the bed now.

Q Um-hum. How about your left knee? Does it, does it give you trouble, as well, with activity?

A Yes.

Q Does it swell?

A Yes.

Q Does it become stiff and immobile?

A Yes.

Q Is it painful?

A Yes.

Q If we kind of go through the same scenario, scenario we did with your ankle, do you have good days and bad days?

A Yes.

Q How many good days do you think you have in a week's time?

A With my knee?

Q Um-hum.

A Probably four good days.

Q Okay. Pain level, one to 10, one being the least, 10 being the most?

A On a good day?

Q Um-hum.

A On a good day, three.

Q And on a bad day?

A Six.

Q As to the affected area of your ankle, do you ever have any -- what kind of sensations do you have? Do you have normal feeling in your ankle?

A No.

Q What, what kind of sensations do you have there?

A Parts of my ankle and, and the leg are numb on the outside part. The inner ankle is very sensitive to touch, and has a damaged nerve. If it comes in contact with anything, it sends an electrical shock. I have a radiating, throbbing pain. Also, it becomes numb,

especially when it swells and the circulations seems to be poor, it's numb, tingles like it's asleep.

Q Is that every day?

A Yes. That happens every day.

Q Do you ever have cramping associated with this?

A Yes, something like Charlie horses, especially in my foot.

And I get muscle twitches in my leg. And also, I have a loss of feeling in my toes as far as flexing them up.

Q How long does that last, usually, the cramping and so forth?

A It could last for 45 minutes to three hours. Sometimes, it lasts all night long.

Q And that's pretty well daily?

A Yes, every day.

Q How long do you think you can sit before you become uncomfortable or your ankle begins to swell or bother you?

A Probably about 30 minutes.

Q And if it does swell, what do you have to do?

A If --

Q If your ankle swells up from sitting?

A I have to elevate it --

Q Do you get any --

A -- above my heart.

Q Do you get any relief from getting up and moving around?

A No.

Q How, how long can you stand before you become uncomfortable?

A Fifteen to 20 minutes.

Q Um-hum. How about bending? Can you, can you bend over and pick things up off the floor?

A No. Rarely.

Q Okay.

A I might be able to bend over and pick up a piece of paper, but not every day.

Q Repeatedly?

A Rarely.

Q If you had to do it repeatedly?

A No, and I typically have to hold onto the wall.

Q Why is that?

A Because my gait and my balance are off, and I don't have the same ability to flex and bend in my knee or my ankle.

Q Stooping?

A No.

Q How about lifting? Can you pick things up off the floor, like 5 pounds, a 5-pound sack of flour?

A I don't know, off the floor. Maybe from a table about this height.

Q Uh-huh.

A I haven't tried to pick up 5 pounds from the floor.

Q Do you, do you try to avoid lifting?

A Yes.

Q Keeping things out of your hands?

A Yes. The doctor's told me that I should only lift 5 to, at the most, 15 pounds, and I shouldn't be bending over to lift anything.

Q I see. Climbing stairs probably eliminated?

A Correct.

Q Ladders out?

A Correct.

Q You mentioned you had a cyst in your right hand. Are you right-handed?

A Yes.

Q Has that affected your ability to manipulate, fine motor control, and so forth?

A Yes.

Q Can you handle a pen?

A Yes, but I can't write for long periods of time, and there are some days when my hand's so cramped and closed that I wouldn't be able to write, type, open jars.

Q Okay. Keyboard?

A Keyboard.

Q Okay.

A Ten key.

Q Well, you've had to put up with quite a bit through all of this, all these surgeries and your limitations. How has that affected you mentally?

A I deal with a lot of depression, and anxiety, and guilt.

Q Yeah? Do you ever have periods of depression where you kind of sit at home, and shut the windows, and refuse to talk to people?

A I don't -- yes.

Q How often does that occur?

A Probably five days out of the week.

Q Um-hum. Have you ever had any crying episodes?

A Yes, I have crying episodes daily.

Q Daily?

A Yes.

Q How long do they last?

A Thirty minutes to two hours.

Q Are you taking any medication for that?

A For the anxiety, I take Xanax.

Q I see.

A And I --

Q What kinds of things cause you to be anxious?

A Being out in public places, being in crowded places, being in a vehicle that I'm not driving, being -- anywhere that I go, I'm constantly worried about, what if there was a fire? You know, how would I get out? And --

Q What about a crowd makes you --

A A crowd.

Q -- anxious? What are you afraid of?

A Being trampled over, or not being able to protect -- my oldest child is disabled, cerebral palsy. Being -- especially if he and I are out, and -- or just, something happened that --

Q I see. Are you afraid people will knock you over, bump into you?

A Yes. Yes, I've been bumped into, and fallen.

Q You've said you're nervous when you're in a car. What -- are

you -- the same thing, or --

A I'm afraid of being in a wreck. I'm --

Q So -- but --

A -- afraid of not being able to -- I don't like not being in control of it. I get shortness of breath. I've had crying episodes in vehicles, panic attacks.

Q What do you do when these things come over you?

A I break out in hives, and cry, and --

Q Do you remove yourself?

A -- try to -- yes. I try to go back to my house, to my bedroom, specifically, as soon as possible.

Q You said that you can drive. So, you don't have any restrictions on driving?

A Yes, I'm not supposed to drive for long periods of time.

Q How far do you think you drive normally when you get in a car?

A The most I drive, typically, is four blocks.

Q Can you use your foot to push on the pedal?

A On the gas pedal. I use my left foot for the brake.

Q Can you feel with your right foot?

A Not with the toes. With the heel more.

Q I see. Well, I asked you about housework earlier. Who does the housework at your house?

A Mainly, my husband and my middle child, [REDACTED] (PHONETIC).

Q So, you have lots of help around the house?

A Um-hum, yes, um-hum.

Q How about meals?

A All three of my children are a full day of school, so they have breakfast at school, lunch at school; and my husband is off early in the afternoon, so he typically cooks, or we have sandwiches, or --

Q Uh-huh.

A -- out to eat. And after surgeries, I was on the Meals on Wheels program to where somebody would come by and bring me food, the church.

Q Very good. How about socially? Do you get out much?

A No.

Q You mentioned medications earlier. What kind of medications are you on?

A Prescription medications, Lortab, Xanax, and Ambien.

Q And how often do you take them? Do you take them every day?

A Yes. And Albuterol inhaler.

Q Do you have any side effects associated with your pain medication or your anxiety medication?

A The pain medication makes me nauseous, itchy, dizzy, so I typically, after I take that, I lay down. I get real hot.

Q Um-hum.

A And I also become irritable, so I typically lay down and go to sleep when I take that. And the anxiety medication helps to regulate the anxiety somewhat, but it also affects -- gives you kind of a numbness and nonability to be out driving, or --

Q Um-hum.

A -- operating machinery, or anything.

Q So --

ALJ: Try and speak up a little louder, would you, ma'am?

CLMT: I'm sorry.

ALJ: That's all right.

BY ATTORNEY:

Q Do you have any kind of walking apparatus or -- I know you've -- I've seen that you've had different things throughout your process of healing.

A Um-hum.

Q What kinds of things have you had?

A I've had a wheelchair, crutches, a walker with wheels and a walker without wheels, a cane, and I have a -- not an electric scooter, but it's a scooter that I can put my right leg up on, and then, you pedal with your left leg.

Q And is that what you came here today with?

A Yes.

Q I see.

A And I still have all the other -- the doctor's instructed me to keep everything else. When it rains and snows, if I have to get out, I use the walker.

Q I see. Do you drink alcohol or take illicit drugs?

A I have an occasional drink of wine --

Q Um-hum.

A -- glass of wine. I don't use illicit drugs.

ATTY: Okay. That's about all the questions I have at this time, Your Honor.

ALJ: Okay.

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Ma'am, I -- you have three children, and how do you handle taking care of them?

A My husband works from 5:30 in the morning until 2:30 in the afternoon, so about the time that they're getting out of school, he's off work, and their school is all within four blocks, so take, I take them to school, and we share picking -- the responsibility of picking them up. My father and his wife live two doors away from me. My mom lives two blocks away from me. So, I have my family, really, there to help.

ALJ: Okay. Let's see if we can't -- I, I just needed to bring that up and just check into it. Let's, let's talk a little bit with our vocational expert.

(The vocational expert, [REDACTED] having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Ma'am, your name is?

A [REDACTED] (PHONETIC).

Q And, [REDACTED] I think you've probably been in hearings with [REDACTED] before, have you not?

A I believe so, Your Honor.

ALJ: All right. [REDACTED], would you have any problem with her --

ATTY: No objections, Your Honor.

ALJ: -- testimony?

ATTY: No objections.

ALJ: I didn't think you would, I'm sure. Ms. Bottrough is very

well-recognized and does a good job. I know that. And most of the attorneys tell me that, anyhow. All right.

BY ADMINISTRATIVE LAW JUDGE:

Q Ma'am, you've looked at the records already. I know that, and I'm not going to go through all that usual kind of thing. Just tell us, from the records, what you find that she -- the kind of work she's done, say, in the past 15 years, and give us some idea about what that work entails.

A The jobs that, in my opinion, meet SGA, Your Honor, would be [REDACTED] in a bank, which is light skilled work; [REDACTED], also light skilled work; [REDACTED] sedentary semiskilled work; and [REDACTED] light skilled work.

Q Um-hum. What kind of jobs are those from the standpoint of exertional requirements, ma'am?

A The light jobs would require being up on your feet the majority of the workday, with lifting requirement being a maximum of 20 pounds. The sedentary jobs are done primarily in a seated position, with a maximum lifting requirement of 10 pounds.

Q All right, then, ma'am. Let's see. Hard to kind of ask questions that I have in mind, here. Let's assume, ma'am, for the sake of a hypothetical, here, that I found that -- a second, here. Let's assume that I was to find that she would, as a result of her physical injuries, would be able to lift, say, 10 pounds occasionally, but less than 10 pounds on any kind of a frequent basis; and let's just say that in an eight-hour workday with normal work breaks, now, that she would only be able to, to walk and/or stand approximately two

hours. On the other hands, let's assume that in an eight-hour workday, she'd be able to do about six hours in an eight-hour workday with sit -- reference to sitting. Now, with those particular restrictions right there, would there be any work that she's done in the past that she could do?

A The occupation of telemarketer.

Q Um-hum.

A And in -- which is a sedentary semiskilled job. And in Oklahoma, there's 5,100 of those kind of jobs; and 296,000 in the nation.

Q All right. And now, ma'am, let's also make the assumption that we have an individual that would -- just a second, now. I'm going to pull something up here that I can kind of depend on. Well, ma'am, let me ask this. In the jobs that you just mentioned, would these be jobs that -- well, you would have to be able to deal with the public, assume, in those jobs; or would you?

A That's correct, you would.

ALJ: Okay. Hm. Well, to be perfectly honest about it, I'm having a little trouble finding the kind of -- let's let [REDACTED] ask you some questions. He's real good at this sort of thing. So, go right ahead and ask some questions, [REDACTED]

EXAMINATION OF VOCATIONAL EXPERT BY ATTORNEY:

Q In the first hypothetical that was described, if an individual suffered from anxiety, and on occasion, would feel anxious, regardless of rational fear or not, and had to remove herself from that situation, meaning she'd have to leave her station of employment, and

that occurred once a week, would that eliminate any of those jobs?

A How long would she have to remove herself from the station of work?

Q Oh, let's say, three hours.

A It would preclude competitive employment.

Q Anywhere?

A Anywhere.

Q If we take out the anxiety part of the question that I just asked you, and I said, well, if we had an individual who was capable of doing the kind of work that you said; however, if she sits for longer than about 45 minutes, she's had an ankle injury, and that ankle begins to swell and become uncomfortable, and her only method of relief would be -- well, she has two methods of relief: one, taking pain medicine, which might make her a little foggy; or she could get in a reclining position where her foot would have to be higher than her heart for a period of, say, 30 minutes, three times a day. Would that eliminate any of the jobs that you've described?

A It would eliminate all of them, and preclude competitive employment.

ATTY: Okay. I, I, I think that would cover it, Your Honor.

ALJ: All right, then. Let me take a real good look at it and see what we've got here, and I'll, I'll look it all over and try to take it under advisement and try to get to it just as quick as I can, which should be pretty close -- pretty, pretty fast. I'm, I'm, I'm not real far behind, so I can handle it, I think, by looking at it, and I'll study it over. And it's good to see you again. Do you have

any more cases with me today?

ATTY: Not, not today, Your Honor, but I did have one more question that --

ALJ: Yeah. Go right ahead. Ask it.

ATTY: -- related to that she --

ALJ: Sure.

ATTY: -- she's asked me earlier about her records.

RE-EXAMINATION OF CLAIMANT BY ATTORNEY:

Q Are, are we missing some more recent records?

A Yes.

ALJ: Okay.

BY ATTORNEY:

Q Okay, and is it related to your ankle or your knee?

A Yes. I had a --

Q Okay.

A -- knee surgery that's not included, and I had a following surgery as a result of an injury from the last knee surgery being (INAUDIBLE).

ATTY: Okay.

RE-EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q When was that surgery on --

A The last knee surgery was -- I don't know the exact date.

Q That's all right, ma'am. Just give me a --

A June of 2009.

Q Okay.

A And during that knee surgery, they did -- I think it's called

an endotracheal anesthesia, where they put a tube, and they put a hole in my throat.

Q Um-hum.

A And I had an upper respiratory infection, so everything drained in my ear, and as a result of the hole put in my throat from the last knee surgery, they had to put a tube in my ear August of 2009.

Q All right. Now, what happened after that? Did you have any other surgeries or anything?

A Yes. I was having some, I had some weight gain, and hair growth, and not a consistent menstrual cycle; so, they ran some tests, and I had a nabothian cyst found in my cervix/uterus. And so, in December of 2009, they -- I had another surgery that burned out my uterine lining and removed the cyst.

ALJ: All right, then. Let me say this: I'm going to go ahead and make an allowance in the case, and I will make a recommendation, of course, that you do follow it closely within the next, say, six months to a year, because she's a very young woman, and there's no question in my mind she'll be -- probably, if all goes well, she'll be all right. Time will tell. But I'm doing this on the basis, really and truly, of the fact that, well, based primarily on the fact that she just had so many different surgeries that had come about since this injury that she's had, it just seems like she's always been in the hospital and all that. Now, it's true that some of the things have developed here since she was last insured. The ganglion cyst, for instance, that she had on the wrist, and other things. But

generally speaking, I think what she has here is a problem that -- where she's had, had to have the metal removed in one instance, some of the metal removed in one instance, and all that. So, I'm going to put her, probably, in here, as meeting a listing with reference to the lower extremity, and also, below the sedentary level of function. And then, what I'll do is, I'll recommend that they reconsider her in the not too distant future, because I have a great deal of faith in the fact that the kind of things that she's got are things that are not permanently a problem, as a general rule. They're more -- well, they're a hindrance, there's no question about that, and she won't ever get over everything entirely, but she'll get to the point where she can go -- now, of course, a question came up, well, why couldn't she go back to being some of the things she's done in the past, like being a [REDACTED] and a, and a, a [REDACTED]. Well, the main reason there is that she's had so much trouble with the swelling, and having to keep her leg up, and, and all that, and I do know she's had some, some problems that are mental in nature. She's showing on her records here that she's had some problems with -- well, they mention mood as one of the main things, and some anxiety that's associated with that. They're indicating here the somatoform type of activity, and then, some personality problems that have gone into it, also. And that's all covered under the, the medical opinions of the Ph.D. and some of the other doctors in here. I notice, too, that she has had a good deal of trouble with pain, and has had to go through the pain management people, and I was particularly impressed, incidentally, with the report that was given by Dr. [REDACTED] and although

Dr. [redacted], I don't see him as a treating physician, I do note in here that he gave a pretty good summary of the problems that she has had, indicating that back on February 19, 2009, that she was status post her fracture to the right ankle, and status post an ACL tear in the left knee, so we've got two of the lower extremities that are involved. I note here that when she was 31 years old, she fell through an attic onto the floor, that was on March 13, 2008, and was found to have a pilon fracture of the right tibia and right fibula with a shortening and slight displacement, and she's had numerous surgical procedures since then. And I note here that she, in March the 25th, why -- of that year, why, she -- let's see. March 25, 2009, she had the external fixator removed, and an ORIF of the fracture with plate and screws. It indicates there the fusion actually took place on December the 11th, 2008, I guess. And then, of course, she fell again on February the 8th, and apparently, that was 2009, and came up with even more. Now, [redacted] has been the one to take care of it. And so, I'm going to go along with the concept that, in view of her testimony, that she's still using a walker, and that she's having chronic pain, stiffness, and there is some evidence of some decreased vision, some sinus allergies, some panic attacks, some asthma, some peptic ulcer disease, various joint pains, bruising is easy, et cetera. I'm showing her as separated with three children here, but that isn't true, is it, ma'am?

CLMT: No. At the -- we had separated, but not anymore.

ALJ: Not anymore. So, your husband is at home now, and is able to take care of the children after 2 o'clock in the afternoon.

CLMT: Correct.

ALJ: And that's helpful. All right, then. I think we've got enough here for that. The thing that I've noted in here -- and the reason that I let it go on as much as I did, is, I felt like this might be a closed period. But apparently, it isn't. But it's -- I think, probably, based on what I'm seeing here, the doctors seem to be somewhat optimistic about her possibilities, so -- and I am glad to see that, and I'm glad she's -- I'm sure she is, too. She'll have some problems, of course, I'm sure, in the future. There's no question about that. But let's hope she gets a lot better. Okay, if there's nothing further, then -- is there anything further, Mr. Smith?

ATTY: No, Your Honor.

ALJ: Okay. We'll go ahead and make the allowance on those reasons I just set forth. The hearing stands as closed.


ATTY: Thank you, Your Honor.

ALJ: Incidentally --

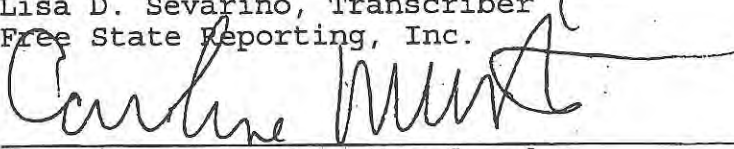
(The hearing was closed at 1:09 p.m. on April 26, 2010.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge W. Howard O'Bryan, Jr.



Lisa D. Sevarino, Transcriber
Free State Reporting, Inc.



Caroline Musterman, Proofreader
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SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: APR 17 2008

[REDACTED]

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255. Please put the Social Security number shown above on any appeal you file.

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It will review your case if one of the reasons for review listed in our regulation exists. Section 404.970 of the regulation lists these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

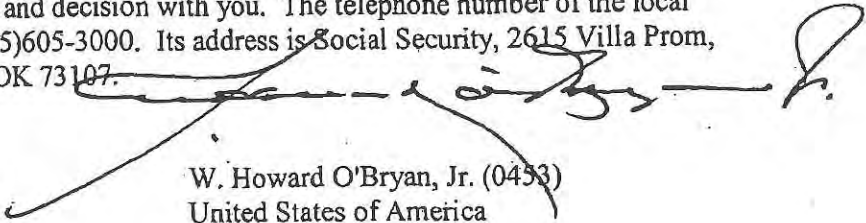
If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

See Next Page

[REDACTED]

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)605-3000. Its address is Social Security, 2615 Villa Prom, Shepherd Mall, Oklahoma City, OK 73107.



W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

cc:

[REDACTED]

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance
Benefits

(Social Security Number)

I approve the fee agreement between the claimant and his representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

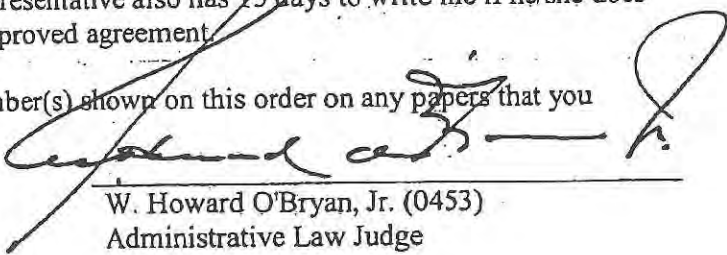
Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, J/D
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc

Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

You should include the social security number(s) shown on this order on any papers that you send us.



W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

APR 17 2008
Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

CLAIM FOR

(Claimant)

Period of Disability and Disability Insurance
Benefits

(Wage Earner)

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated March 27, 2008. The evidence of record supports a fully favorable decision; therefore no hearing has been held (20 CFR 404.948(a)). The claimant is represented by _____

The claimant is alleging disability since June 15, 2006.

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any *substantial gainful activity* by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2011. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from June 15, 2006 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). *Substantial gainful activity (SGA)* is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

See Next Page

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant's date last insured is December 31, 2011.
2. The claimant has not engaged in substantial gainful activity since June 15, 2006, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

Vocational Information

javascript:hideShowDataViewSection(%22JobsWorkedintheLast15years%22)

Jobs Worked in the Last 15 years

Job Title	Type of Business	From	To
1. Firefighter/Inspector	Government	May 1986	May 2006

javascript:hideShowDataViewSection(%22WorkDevelopment-InitialLevel%22)

Work Development - Initial Level

Claim Type: DIB
820/821 Pending: No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-InitialLevel%22)

Ticket/Program Information - Initial Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-ReconsiderationLevel%22)

Ticket/Program Information - Reconsideration Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-HearingLevel%22)

Ticket/Program Information - Hearing Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22AdditionalRehabilitationInformation%22)

Additional Rehabilitation Information

Working now? No

Stopped working because: Because of other reasons (not my condition) The career that I had, required an annual physical. In March of 2006 I did not pass the required physical. The particular Dr. that evaluated me concluded that, in his opinion, I would not be able to continue my present duties because of the heart bypass in 1997. I had the opportunity to voluntarily retire in May of 2006, so that's what I did, with the intention of retiring/changing careers. On June 15, 2006 I was diagnosed as needing a double bypass on my heart and arterial bypass in both legs. I don't believe that I am now able to work anymore.

Stopped working when: 05/31/2006

Alleged Impairments: Coronary artery disease Blocked cardiac arteries, Blocked leg arteries, Back injury, Hypothyroidism, Painful walking, Edema in the lower extremities, Hypertension, Anxiety My numerous medical conditions cause combined symptoms. My back, after 5 surgeries stills hurts. Pain affects my sleeping, bending, lifting, standing and walking. I have an aggressive form of heart disease. Heart attack, triple-bypass and double-bypass after affects, tiredness, get short of breathe easily, my lower extremities stay swollen and it is very painful to walk. I have anxiety and it makes it difficult to leave the house. I am told these disabilities will not get any better. Heart arterial bypassx2 1997 and 2006.

3. The claimant has the following severe impairment(s):

Allegation(s)

[javascript:hideShowDataViewSection\(%22Impairments,LimitationsandPain-InitialLevel%22\)](#)

Impairments, Limitations and Pain - Initial Level

Alleged Impairments: Coronary artery disease Blocked cardiac arteries, Blocked leg arteries, Back injury, Hypothyroidism, Painful walking, Edema in the lower extremities, Hypertension, Anxiety My numerous medical conditions cause combined symptoms. My back, after 5 surgeries stills hurts. Pain affects my sleeping, bending, lifting, standing and walking. I have an aggressive form of heart disease. Heart attack, triple-bypass and double-bypass after affects, tiredness, get short of breathe easily, my lower extremities stay swollen and it is very painful to walk. I have anxiety and it makes it difficult to leave the house. I am told these disabilities will not get any better. Heart arterial bypassx2 1997 and 2006.

Limitations: The anxiety and medicines and medical conditions cause me an inability to concentrate or focus on instructions. I am very forgetful and cannot sit for long periods of time. It is very painful to walk, lift, sit or stand for long periods of time. Unable to stay in any position for any length of time. I have to take lots of naps because I can't sleep at night because of pain and anxiety.

Pain/Other Symptoms: Yes

Impairments First Interfered With Ability to Work: June 15, 2006

Height: 6'

Weight: 250 lbs.

Client-Remarks - 3368: Sec 4, E - For one or more of the hospital(s) I listed, I had more inpatient stays*Sec. 6, F - I had these tests more than once: EKG (Heart test), Treadmill (exercise test), Cardiac Catherization, Hearing Test, Vision Test, Blood Test (not HIV), Breathing Test, X-Ray, MRI/CT Scan*I knew my health was steadily declining and that I would have to retire from the (regulations require retirement of by the age 57). I knew my retirement wouldn't be enough for me and my family to live on, but I was planning on finding another job. Then I had the last 4 surgeries and concluded due to my conditions that I would not be able to continue working. *Internet medical form initiated on: 02/08/2007*

[javascript:hideShowDataViewSection\(%22EffectonWork-InitialLevel%22\)](#)

Effect on Work - Initial Level

Ever Worked: Yes

Working Now: No

When Stopped: 05/31/2006

Stopped Working Because: Because of other reasons (not my condition) The career that I had, required an annual

See Next Page

physical. In March of 2006 I did not pass the required physical. The particular Dr. that evaluated me concluded that, in his opinion, I would not be able to continue my present duties because of the heart bypass in 1997. I had the opportunity to voluntarily retire in May of 2006, so that's what I did, with the intention of retiring/changing careers. On June 15, 2006 I was diagnosed as needing a double bypass on my heart and arterial bypass in both legs. I don't believe that I am now able to work anymore.

Work After Impairment First Interfered: No

Explanation: took early retirement

javascript:hideShowDataViewSection(%22Impairments,LimitationsandEffects-ReconsiderationLevel%22)

Impairments, Limitations and Effects - Reconsideration Level

Any Changes in Condition: No

Any New Illnesses or Injuries: No

Any New Limitations: No

How Condition Affects Ability to Care for Personal Needs: Unable to stand or walk for very long.

How Daily Activities Changed: No change. No better.

Client Remarks - 3441: null* This report was completed on the Internet using i3441 (Public) by: Report Completer Name: Report Completer Address: Report Completer Phone Number: Report Completer Email Address: Internet medical form submitted on: 12/18/2007

Work Since Original Claim Filed: No

Submitting New Evidence: No

Reason Appeal Requested: I AM DISABLED

javascript:hideShowDataViewSection(%22Impairments,LimitationsandEffects-HearingLevel%22)

Impairments, Limitations and Effects - Hearing Level

Any Changes in Condition: Yes

Changes in Condition: The time I can stand before I must sit and rest is getting shorter because of my increasing back pain.

Date Occurred: February 2008

Any New Illnesses or Injuries: Yes

New Illnesses, Injuries, or Conditions: I have now been diagnosed as a Type II Diabetic.

Date Occurred: 3/12/08

Any New Limitations: No

How Condition Affects Ability to Care for Personal Needs: I still care for my own personal needs.

How Daily Activities Changed: As I stated before, the time I can stand is getting shorter and shorter due to increasing back pain. I must sit and rest more often so any activity I do takes longer.

Client Remarks - 3441: I have been working part time since about December 2007. I only work 2 days a week driving a shuttle van from hotel to train. I work a 12 hour shift and am paid \$7 per hour. I am able to change my position often and do not sit continuously. I am unable to work any more than 2 days due to my medical condition.* This report was completed on the Internet using i3441 (Public) by: Report Completer Name: Report Completer Address: Report Completer Phone Number: Report Completer Email Address: Internet medical form submitted on: 03/27/2008

Worked Since Filing For Reconsideration: Yes

Submitting New Evidence: Yes

Reason Appeal Requested: DISABLED DUE TO 2 HEART BYPASS SURGERIES, 5 BACK SURGERIES (FUSION), HEART DISEASE, SLEEP APNEA, HBP, HYPOTHYROID, FATIGUE & SHORTNESS OF BREATH.

(20 CFR 404.1520(c)).

See Next Page

4. The severity of the claimant's

<p>Primary Musculoskeletal (01)</p>	<p>Disorders of back discogenic and degenerative (7240) Essential hypertension (4010), Coronary artery disease, Blocked cardiac arteries, Blocked leg arteries, Back injury, Hypothyroidism, Painful walking, Edema in the lower extremities, Hypertension, Anxiety My numerous medical conditions cause combined symptoms. My back, after 5 surgeries stills hurts. Pain affects my sleeping, bending, lifting, standing and walking. I have an aggressive form of heart disease. Heart attack, triple-bypass and double-bypass after affects, tiredness, get short of breathe easily, my lower extremities stay swollen and it is very painful to walk. I have anxiety and it makes it difficult to leave the house. I am told these disabilities will not get any better. Heart arterial bypassx2 1997 and 2006. The anxiety and medicines and medical conditions cause me an inability to concentrate or focus on instructions. I am very forgetful and cannot sit for long periods of time. It is very painful to walk, lift, sit or stand for long periods of time. Unable to stay in any position for any length of time. I have to take lots of naps because I can't sleep at night because of pain and anxiety related disorders (3000), obesity and hyperalimentation (2780), etc., Height: 6' Weight: 250 lbs.</p>
<p>Secondary Cardiovascular (04), etc.,</p>	

meets the criteria of section(s) 1.04A, etc., of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d)). The record shows the claimant is functional below the sedentary level for any sustained, continual or regular activity.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

A. EXERTIONAL LIMITATIONS

None established. (Proceed to section B.)

1. Occasionally lift and/or carry (including upward pulling) (maximum) - when less than one-third of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 20 pounds
 50 pounds
 100 pounds or more

2. Frequently lift and/or carry (including upward pulling) (maximum) - when less than two-thirds of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 25 pounds
 50 pounds or more

3. Stand and/or walk (with normal breaks) for a total of -

- less than 2 hours in an 8-hour workday
 at least 2 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 medically required hand-held assistive device is necessary for ambulation

4. Sit (with normal breaks) for a total of -

- less than about 6 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 must periodically alternate sitting and standing to relieve pain or discomfort. (If checked, explain in 6.)

5. Push and/or pull (including operation of hand and/or foot controls) -

- unlimited, other than as shown for lift and/or carry
 limited in upper extremities (describe nature and degree)
 limited in lower extremities (describe nature and degree)

6. Explain how and why the evidence supports your conclusions in item 1 through 5.

Cite the specific facts upon which your conclusions are based.
 Clt has had lumbar fusion. Has had coronary artery and peripheral artery disease with revascularization. Has no CHF. ETT 12-27-06 shows no ischemia at 6.76 mets by report of the cardiologist. No chest pain now. Does complain of leg and hip pain. Has ABI of 0.89 right and 0.96 left. Has normal xrays of hips and knees. Had lumbar fusion in 2004. Flexes lumbar 60 degrees now. No loss of sensation, reflexes, or motor.

See Next Page

B. POSTURAL LIMITATIONS

None established. (Proceed to section C.)

	Frequently	Occasionally	Never
1. Climbing - ramp/stairs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
- ladder/rope/scaffolds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Balancing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Stooping	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Kneeling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Crouching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Crawling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. When less than two-thirds of the time for frequently or less than one-third for occasionally, fully describe and explain. Also explain how and why the evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based.
See A6

Specify the listing(s) (i.e., 12.02 through 12.10) under which the items below are being rated
12.06

FUNCTIONAL LIMITATION	DEGREE OF LIMITATION					
	None	Mild	Moderate	Marked*	Extreme*	
1. Restriction of Activities of Daily Living	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
2. Difficulties in Maintaining Social Functioning	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
3. Difficulties in Maintaining Concentration, Persistence, or Pace	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>

IV. CONSULTANT'S NOTES

The claimant is 56-04 y/o male. He denies being depressed, but he reports a "little bit" of anxiety for which he takes .1 mg. of Kanax daily. At MSE, he did not appear depressed. He reported that he is an avid news watcher, and he spends quite a bit of time working in the yard. He is retired from his job. His MSE was essentially unremarkable with no deficits in any domain, with the exception of working memory, which was possibly in the mildly problematic range. There have been no psych inpatient treatments.

OK-R/O Generalized Anxiety Disorder



[Redacted]

Telephone: [Redacted]
Fax: [Redacted]
"A complete cardiovascular research center"

VASCULAR LABORATORY
RESTING DOPPLER STUDIES

NAME: [Redacted] DATE: 10/10/07
AGE: 56 SEX: M REFERRING PHYSICIAN: STATE OF OKLAHOMA
DIABETES: N HTN: Y CAD: Y HIGH CHOLESTEROL: Y
CLAUDICATION: Y PVD: N SMOKING: PAST: Y PRESENT: N

BRACHIAL ARTERY PRESSURE (mmHg): RIGHT: 144 LEFT: 146

LEG PRESSURES:	RIGHT	ABI	LEFT	ABI
COMMON FEMORAL	---	---	---	---
POPLITEAL	---	---	---	---
POSTERIOR TIBIAL	130	0.89	130	0.96
DORSALIS PEDIS	124	0.85	138	0.95

DOPPLER SIGNALS:	RIGHT	LEFT
COMMON FEMORAL	---	---
POPLITEAL	---	---
POSTERIOR TIBIAL	ABN	ABN
DORSALIS PEDIS	ABN	ABN

(N=NORMAL, ABN=ABNORMAL, O=ABSENT)

COMMENTS: The resting doppler signals are abnormal in both legs. The resting pressures are abnormal in the right leg and borderline normal in the left leg. These findings are consistent with mild blood flow decrease in the right leg.

PHYSICIAN SIGNATURE: _____

[REDACTED]

PATIENT [REDACTED] DATE 10/10/2007
 ADDRESS _____ AGE 56 SEX M
 _____ HEIGHT _____ WEIGHT _____
 TELEPHONE NO. _____ BUILD { LINEAR _____
 INTERMEDIATE _____
 LATERAL _____
 OCCUPATION _____ BLOOD PRESSURE _____
 DOCTOR(S) _____

HISTORY HTN, CAD, Bypass Surgery Thrice, Hyperlipidemia, Ex Smoker for 20 yrs

MEDICATION _____

PATIENT POS. _____ P WAVES _____

AURIC. RATE _____ T WAVES _____

VENT. RATE _____ S-T SEGMENT _____

P-R INTERVAL _____ RHYTHM _____

QRS INTERVAL _____ ELEC. AXIS _____

Q-T INTERVAL _____ ELEC. POSITION _____

FINDINGS THE RESTING DOPPLER TRACINGS ARE ABNORMAL IN BOTH LEGS

REMARKS _____

PATIENT [REDACTED] ECG NO. [REDACTED] CASE NO. [REDACTED] DATE 10/10/2007

DATE/DR.:
NAME:
SS/CASE #:

08-08-07

CHIEF COMPLAINT:

1. Severe hip pain.
2. History of heart problems.
3. Back problems.

HISTORY OF PRESENT ILLNESS:

The patient is a 56-year-old Caucasian male with a significant history of cardiovascular disease, including coronary artery disease, as well as peripheral vascular disease. The patient currently states that the most significant functional limitation he has is trouble walking, moving or doing work secondary to pain in his hips. He says his pain comes on basically with any sort of activity and is relieved with rest. It is bilateral in nature. It is sharp, although achy in nature. He is, however, able to ride a stationary bike for a while, which seems to help with the pain sometimes. He also has some associated back pain and has a long history of back pain with one laminectomy, as well as one level fusion. He reports the current back pain is midline, approximately at L5-S1 in location on his back. It is non palpable. Exterior he does have pain that radiates into his left leg, specifically on the posterior aspect of his thigh. The patient currently denies any chest pain. He has not had any chest pain since his most recent CABG in 2006. He has not used nitroglycerine and feels like his functional limitation cardiovascularly is improved since that operation. The patient currently states that his main limitation is the hips, although he is hesitant to do anything physical secondary to his extensive cardiovascular history.

PAST MEDICAL HISTORY:

1. History of myocardial infarction.
2. Coronary artery disease.
3. Peripheral vascular disease.
4. Hypothyroid.
5. Degenerative disc disease.
6. Cataracts.

PAST SURGICAL HISTORY:

1. Three vessel CABG, 1997.
2. Two vessel CABG, 2006.
3. L4-L5 laminectomy in 2004.
4. Fusion L4-L5 2004.
5. Left sided stapedectomy.

See Next Page

Page 2

6. Right sided stapedectomy and subsequent redo secondary to infection.

SOCIAL HISTORY:

Past history of smoking, has not smoked for 3 years, denies alcohol or drugs. The patient is a retired [redacted] and has attempted to work as a truck driver, but he has had difficulty secondary to hip pain, as well as history of cardiovascular issues.

FAMILY HISTORY:

1. Strong family history of coronary artery disease.

PHYSICAL EXAMINATION:

VITAL SIGNS: Blood pressure is 160/90. Pulse is 85. Respirations are 12.

Temperature is 98.3. Visual acuity: With glasses, 20/20 right; 20/20 left; without glasses, right 20/70; left 20/200. Height: 72 1/2 inches. Weight: 254 pounds.

GENERAL COMMENTS: The patient is very pleasant Caucasian male, cooperative, alert, awake and oriented in no acute distress at this time.

HEENT: Head is atraumatic, normocephalic. Pupils are equal, round, and reactive to light and accommodation. Extraocular muscles are intact. Nose and throat have moist and pink membrane. He has good dentition. No nodules are noted in his neck. No bruits when auscultated.

CARDIOVASCULAR: Regular rate and rhythm without murmur.

LUNGS: Clear to auscultation bilaterally.

ABDOMEN: Soft, and nontender. Bowel sounds are positive.

EXTREMITIES: No edema, cyanosis or clubbing. No lower extremity pulses were palpable, including dorsalis pedis and posterior tibial. The patient reports he typically has to find that with Doppler.

MUSCULOSKELETAL: No muscle spasms are noted. Muscle bulk was symmetric and appropriate. Deep tendon reflexes are 2+ upper and lower extremities. Range of motion: Please see range of motion sheet. The patient does have limited hip flexion as well as rotation. The patient was able to heel and toe walk effectively bilaterally. He was able to get up out of the chair easily and get on to the exam table easily. Joint exam was non specific. Straight-leg raise tests were positive on the left seated and it was positive bilaterally while supine.

NEUROLOGICAL: Cranial nerves II through XII are intact grossly. No focal deficits in sensation or strength were noted, other than the patient does have decrease in sensation on the left posterior and lateral aspect of his calf. His spine was not tender to palpation over the affected areas. Fine motor skills are appropriate and intact. He did not appear to have any radicular pain at the time of exam.

Page 3

MENTAL STATUS: Patient is alone. He was well kept. Motor behavior was appropriate. Speech, thought process and thought content were appropriate. Sensorium and cognition were appropriate, as was judgment and insight.

ASSESSMENT:

2. Severe hip pain with functional limitations.
3. History of significant cardiovascular disease, coronary artery disease and peripheral vascular disease. The patient currently denies chest pain and does not use nitro.
4. History of degenerative joint disease and disc disease.
5. Hypothyroid.
6. Cataracts.

DATE

Various physicians, treating and non-treating, have written that the claimant suffered from various medical problems and that the claimant has significant work restrictions. While the finding that a person is "disabled" under the provisions of the Social Security Act is an issue reserved to the Commissioner (SSR 96-5p1), opinions from any medical source on issues reserved to the Commissioner must never be ignored. The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner. If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

The fact that the claimant's treating physician, after extensive examinations and treatment, has formed such opinion as to the claimant's ability to perform sustained work activity was precluded strongly suggests a significantly limited residual functional capacity. Further, considering the claimant's diagnoses and multitude of prescribed medications tried, the undersigned finds that treating physician's opinion is well support and is not inconsistent with the other substantial evidence in the case record; thus, it is afforded controlling weight (20 CFR 404.1527(d)(2) and SSR 96-2p).

I. Under 20.CER.404.1527(e), some issues are not medical issues regarding the nature and severity of an individual's impairment(s) but are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability. The following are examples of such issues:

1. Whether an individual's impairment(s) meets or is equivalent in severity to the requirements of any impairment(s) in the listings;
2. What an individual's RFC is;
3. Whether an individual's RFC prevents him or her from doing past relevant work;
4. How the vocational factors of age, education, and work experience apply; and
5. Whether an individual is "disabled" under the Act.

The regulations provide that the final responsibility for deciding issues such as these is reserved to the Commissioner. 11

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In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20-CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

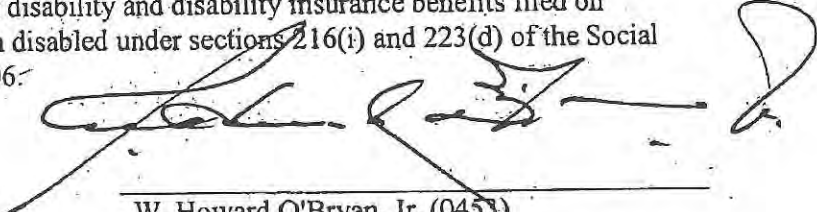
After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment(s) could reasonably be expected to produce the alleged symptoms and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

5. The claimant has been under a disability, as defined in the Social Security Act, from June 15, 2006 through the date of this decision (20 CFR 404.1520(d)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on February 8, 2007, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on June 15, 2006.



W. Howard O'Bryan, Jr. (0453)
Administrative Law Judge

APR 17 2008

Date



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
301 Nw 6th St
3rd Floor West
Oklahoma City, OK 73102

Date: **1DEC 04 2007**

[REDACTED]

NOTICE OF DECISION – FULLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Fully Favorable To You

Another office will process the decision and send you a letter about your benefits. Your local Social Security office or another may first ask you for more information. If you do not hear anything for 60 days, contact your local office.

The Appeals Council May Review The Decision On Its Own

The Appeals Council may decide to review my decision even though you do not ask it to do so. To do that, the Council must mail you a notice about its review within 60 days from the date shown above. Review at the Council's own motion could make the decision less favorable or unfavorable to you.

If You Disagree With The Decision

If you believe my decision is not fully favorable to you, or if you disagree with it for any reason, you may file an appeal with the Appeals Council.

How to File an Appeal

To file an appeal you or your representative must request that the Appeals Council review the decision. You must make the request in writing. You may use our Request for Review form, HA-520, or write a letter.

You may file your request at any local Social Security office or a hearing office. You may also mail your request right to the **Appeals Council, Office of Disability Adjudication and Review, 5107 Leesburg Pike, Falls Church, VA 22041-3255**. Please put the Social Security number shown above on any appeal you file.

Permanent Subcommittee on Investigations

EXHIBIT #15

Time to File an Appeal

To file an appeal, you must file your request for review **within 60 days** from the date you get this notice.

The Appeals Council assumes you got the notice 5 days after the date shown above unless you show you did not get it within the 5-day period. The Council will dismiss a late request unless you show you had a good reason for not filing it on time.

Time to Submit New Evidence

You should submit any new evidence you wish to the Appeals Council to consider **with** your request for review.

How an Appeal Works

Our regulations state the rules the Appeals Council applies to decide when and how to review a case. These rules appear in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J) and Part 416 (Subpart N).

If you file an appeal, the Council will consider all of my decision, even the parts with which you agree. The Council may review your case for any reason. It **will** review your case if one of the reasons for review listed in our regulation exists. Section 404.970 and Section 416.1470 of the regulation list these reasons.

Requesting review places the entire record of your case before the Council. Review can make any part of my decision more or less favorable or unfavorable to you.

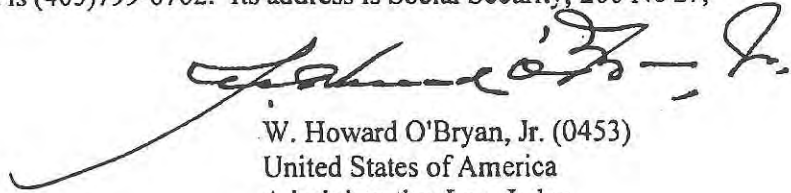
On review, the Council may itself consider the issues and decide your case. The Council may also send it back to an Administrative Law Judge for a new decision.

If No Appeal and No Appeals Council Review

If you do not appeal and the Council does not review my decision on its own motion, you will not have a right to court review. My decision will be a final decision that can be changed only under special rules.

If You Have Any Questions

If you have any questions, you may call, write or visit any Social Security office. If you visit an office, please bring this notice and decision with you. The telephone number of the local office that serves your area is (405)799-0702. Its address is Social Security, 200 Ne 27, Moore, OK 73160.



W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

cc:



SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

ORDER OF ADMINISTRATIVE LAW JUDGE

IN THE CASE OF

CLAIM FOR



(Claimant)

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Wage Earner)



(Social Security Number)

I approve the fee agreement between the claimant and his representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Fee Agreement Approval: You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Joan E Parks Saunders, J. D.
Regional Chief Administrative Law Judge
SSA ODAR Regional Ofc
Rm 460
1301 Young St
Dallas, TX 75202

Fee Agreement Amount: You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.



You should include the social security number(s) shown on this order on any papers that you send us.

W. Howard O'Bryan, Jr. (0453)
United States of America
Administrative Law Judge
Federal Administrative Judiciary

Date DEC 04 2007

**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

CLAIM FOR

Period of Disability, Disability Insurance
Benefits¹, and Supplemental Security²
Income

(Claimant)

(Social Security Number)

(Wage Earner)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated November 7, 2007 (20 CFR 404.929 *et seq.*). The evidence of record ***supports a fully favorable decision; therefore no hearing³ has been held*** (20 CFR 404.948(a) and 416.1448(a)). The claimant is represented by _____ an attorney.

The claimant is alleging disability since August 22, 2006.

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through September 30, 2009. Thus, the

¹ Title II of the Social Security Act is administered by the Social Security Administration. Title II appears in the United States Code as §§401-433, subchapter II, chapter 7, Title 42. http://www.ssa.gov/OP_Home/ssact4title02/0200.htm

² *Regarding your SSI application only:* Eligibility for SSI payments is not dependent in any way upon insured status. With regard to claimant's Title XVI application, the payment of benefits may not be made for any period that precedes the date on which the claimant's application was filed (20 C.F.R. § 416.501). Therefore, for the purposes of this decision, a determination that disability covering the period from June 12, 2007 is considered to be a fully favorable determination.

³ 20 Code of Federal Regulations Ch. III (4-1-06 edition) section 404.948: **Deciding a case without an oral hearing before an administrative law judge. (a) Decision wholly favorable.** If the evidence in the hearing record supports a finding in favor of you and all the parties on every issue, the Administrative Law Judge may issue a hearing decision without holding an oral hearing. ...³³

claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from August 22, 2006 through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to

⁴ The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment, which makes you unable to do your previous work or any other substantial gainful activity which exists in the national economy. To determine whether you are able to do any other work, we consider your residual functional capacity and your age, education, and work experience. http://www.ssa.gov/OP_Home/cfr20/404/404-1505.htm

⁵ The burden of proof then shifts to the Commissioner to prove that the claimant is not disabled. The Administrative Law Judge must find the claimant disabled unless the Commissioner proves by substantial evidence that the claimant is presumptively not disabled under the Medical-Vocational Guidelines or rulings⁵; or that there exist a significant number of other jobs in the national economy that the claimant can perform with her limitations.⁵

the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant's date last insured is September 30, 2009.**
- 2. The claimant has not engaged in substantial gainful activity since August 22, 2006, the alleged onset date (20 CFR 404.1520(b), 404.1571 et seq., 416.920(b) and 416.971 et seq.).**

Vocational Information

javascript:hideShowDataViewSection(%22JobsWorkedintheLast15years%22)

Jobs Worked in the Last 15 years

Job Title	Type of Business	From	To
1. <u>cashier/stocker</u>	retail grocer	2001	2002
2. <u>facility maintenance--repair</u>	job corps	2003	2004
3. <u>landscaper</u>	landscaping business/departments	08/2004	02/15/2006

javascript:hideShowDataViewSection(%22WorkDevelopment-InitialLevel%22)

Work Development - Initial Level

Claim Type: DIB
820/821 Pending: No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-InitialLevel%22)

Ticket/Program Information - Initial Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-ReconsiderationLevel%22)

Ticket/Program Information - Reconsideration Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22Ticket/ProgramInformation-HearingLevel%22)

Ticket/Program Information - Hearing Level

Participate in Ticket program or another program? No

javascript:hideShowDataViewSection(%22AdditionalRehabilitationInformation%22)

Additional Rehabilitation Information

Working now? No

Stopped working because: Because of the pain.

Stopped working when: 09/15/2006

Alleged Impairments: Back pain that affects right leg

3. The claimant has the following severe impairment(s):

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Disorders of back ⁶ discogenic and	Obesity ⁷ and hyperalimentation (2780),
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⁶ 1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitations of motion of the spine, Motorola's (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex losses and, if there is involvement of the low back, policy straight-leg raising test (sitting and supine);

OR

B. Spinal arachnoiditis, confirmed by operative notes or pathology reports of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every two hours;

OR

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic non-radicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B 2b.

7

POLICY INTERPRETATION RULING

TITLES II AND XVI: EVALUATION OF OBESITY

This Ruling supersedes SSR 00-3p, Titles II and XVI: Evaluation of Obesity (65 FR 31039, May 15, 2000).

PURPOSE: To provide guidance on SSA policy concerning the evaluation of obesity in disability claims filed under titles II and XVI of the Social Security Act (the Act).

CITATIONS: Sections 216(i), 223(d), 223(f), 1614(a), and 1614(c) of the Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1508, 404.1509, 404.1512, 404.1520, 404.1521, 404.1523, 404.1525, 404.1526, 404.1528, 404.1529, 404.1530, 404.1545, 404.1546, 404.1561, 404.1594, and appendix I; and Regulations No. 16, subpart I, sections 416.902, 416.908, 416.909, 416.912, 416.920, 416.921, 416.923, 416.924, 416.925, 416.926, 416.926a, 416.928, 416.929, 416.930, 416.933, 416.945, 416.946, 416.961, 416.994, and 416.994a.

INTRODUCTION: On August 24, 1999, we⁷ published a final rule in the Federal Register deleting listing 9.09, Obesity, from the Listing of Impairments in 20 CFR, subpart P, appendix I (the listings). The final rule was effective on October 25, 1999. 64 FR 46122 (1999).

We stated in the preamble to the final rule that we deleted listing 9.09 because our experience adjudicating cases under this listing indicated that the criteria in the listing were not appropriate indicators of listing-level severity. In our experience, the criteria in listing 9.09 did not represent a degree of functional limitation that would prevent an individual from engaging in any gainful activity.

However, even though we deleted listing 9.09, we made some changes to the listings to ensure that obesity is still addressed in our listings. In the final rule, we added paragraphs to the prefaces of the musculoskeletal, respiratory, and cardiovascular body system listings that provide guidance about the potential effects obesity has in causing or contributing to impairments in those body systems. See listings sections 1.00Q, 3.00I, and 4.00F. The paragraphs state that we consider obesity to be a medically determinable impairment and remind adjudicators to consider its effects when evaluating disability. The provisions also remind adjudicators that the combined effects of obesity with other impairments can be greater than the effects of each of the impairments considered separately. They also instruct adjudicators to consider the effects of obesity not only under the listings but also when assessing a claim at other steps of the sequential evaluation process, including when assessing an individual's residual functional capacity.

When we published that final rule, in response to public comments, we stated that we would provide additional guidance in a Social Security Ruling (SSR). (64 FR at 46126) On May 15, 2000, we published SSR 00-3p (65 FR 31039) to provide that additional guidance by discussing how we evaluate obesity in disability claims filed by adults and children under titles II and XVI of the Act. Since then, we have published several final rules that revise some of the criteria we use to evaluate disability claims under titles II and XVI of the Social Security Act. We are issuing this SSR to reflect the changes to the rules that we have published since we published SSR 00-3p.

POLICY INTERPRETATION:

General

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1. What is obesity?

Obesity is a complex, chronic disease characterized by excessive accumulation of body fat. Obesity is generally the result of a combination of factors (e.g., genetic, environmental, and behavioral).

In one sense, the cause of obesity is simply that the energy (food) taken in exceeds the energy expended by the individual's body. However, the influences on intake, the influences on expenditure, the metabolic processes in between, and the overall genetic controls are complex and not well understood.

The National Institutes of Health (NIH) established medical criteria for the diagnosis of obesity in its Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults (NIH Publication No. 98-4083, September 1998). These guidelines classify overweight and obesity in adults according to Body Mass Index (BMI). BMI is the ratio of an individual's weight in kilograms to the square of his or her height in meters (kg/m^2). For adults, both men and women, the Clinical Guidelines describe a BMI of 25-29.9 as "overweight" and a BMI of 30.0 or above as "obesity."

The Clinical Guidelines recognize three levels of obesity. Level I includes BMIs of 30.0-34.9. Level II includes BMIs of 35.0-39.9. Level III, termed "extreme" obesity and representing the greatest risk for developing obesity-related impairments, includes BMIs greater than or equal to 40. These levels describe the extent of obesity, but they do not correlate with any specific degree of functional loss.

In addition, although there is often a significant correlation between BMI and excess body fat, this is not always the case. The Clinical Guidelines also provide for considering whether an individual of a given height and weight has excess body fat when determining whether he or she has obesity. Thus, it is possible for someone whose BMI is below 30 to have obesity if too large a percentage of the weight is from fat. Likewise, someone with a BMI above 30 may not have obesity if a large percentage of the weight is from muscle. However, in most cases, the BMI will show whether the individual has obesity. It also will usually be evident from the information in the case record whether the individual should not be found to have obesity, despite a BMI of 30.0 or above. See question 4, below.

The Clinical Guidelines do not provide criteria for diagnosing obesity in children. However, a BMI greater than or equal to the 95th percentile for a child's age is generally considered sufficient to establish the diagnosis of obesity. (BMIs in the 95th percentile vary by age and sex of the child.) BMI-for-age-and-gender charts are published in medical textbooks or professional journals and by the National Center for Health Statistics. As with adults, the amount of body fat is considered in making the diagnosis of obesity in children.

Treatment for obesity is often unsuccessful. Even if treatment results in weight loss at first, weight lost is often regained, despite the efforts of the individual to maintain the loss. See question 13, below, for additional discussion of obesity treatment.

2. How does obesity affect physical and mental health?

Obesity is a risk factor that increases an individual's chances of developing impairments in most body systems. It commonly leads to, and often complicates, chronic diseases of the cardiovascular, respiratory, and musculoskeletal body systems. Obesity increases the risk of developing impairments such as type II (so-called adult onset) diabetes mellitus—even in children; gall bladder disease; hypertension; heart disease; peripheral vascular disease; dyslipidemia (abnormal levels of fatty substances in the blood); stroke; osteoarthritis; and sleep apnea. It is associated with endometrial, breast, prostate, and colon cancers, and other physical impairments. Obesity may also cause or contribute to mental impairments such as depression. The effects of obesity may be subtle, such as the loss of mental clarity and slowed reactions that may result from obesity-related sleep apnea.

The fact that obesity is a risk factor for other impairments does not mean that individuals with obesity necessarily have any of these impairments. It means that they are at greater than average risk for developing the other impairments.

3. How do we consider obesity in the sequential evaluation process?

We will consider obesity in determining whether:

- The individual has a medically determinable impairment. See question 4.
- The individual's impairment(s) is severe. See question 6.
- The individual's impairment(s) meets or equals the requirements of a listed impairment in the listings. See question 7. (We use special

rules for some continuing disability reviews. See question 11.)

- The individual's impairment(s) prevents him or her from doing past relevant work and other work that exists in significant numbers in the national economy. However, these steps apply only in title II and adult title XVI cases. See questions 8 and 9.

4. How is obesity identified as a medically determinable impairment?

When establishing the existence of obesity, we will generally rely on the judgment of a physician who has examined the claimant and reported his or her appearance and build, as well as weight and height. Thus, in the absence of evidence to the contrary in the case record, we will accept a diagnosis of obesity given by a treating source or by a consultative examiner. However, if there is evidence that indicates that the diagnosis is questionable and the evidence is inadequate to determine whether or not the individual is disabled, we will contact the source for clarification, using the guidelines in 20 CFR 404.1512(e) and 416.912(e).

When the evidence in a case does not include a diagnosis of obesity, but does include clinical notes or other medical records showing consistently high body weight or BMI, we may ask a medical source to clarify whether the individual has obesity. However, in most such cases we will use our judgment to establish the presence of obesity based on the medical findings and other evidence in the case record, even if a treating or examining source has not indicated a diagnosis of obesity. Generally, we will not purchase a consultative examination just to establish the diagnosis of obesity.

When deciding whether an individual has obesity, we will also consider the individual's weight over time.⁷ We will not count minor, short-term weight loss. We will consider the individual to have obesity as long as his or her weight or BMI shows essentially a consistent pattern of obesity. (See question 13 for a discussion of weight loss and medical improvement.)

Finally, there are a number of methods for measuring body fat and, if such information is in a case record, we will consider it. However, we will not purchase such testing. In most cases, the medical and other evidence in the case record will establish whether the individual has obesity.

5. Can we find an individual disabled based on obesity alone?

If an individual has the medically determinable impairment obesity that is "severe" as described in question 6, we may find that the obesity medically equals a listing. (In the case of a child seeking benefits under title XVI, we may also find that it functionally equals the listings.) We may also find in a title II claim, or an adult claim under title XVI, that the obesity results in a finding that the individual is disabled based on his or her residual functional capacity (RFC), age, education, and past work experience. However, we will also consider the possibility of coexisting or related conditions, especially as the level of obesity increases. We provide an example of when we may find obesity to medically equal a listing in question 7.

Sequential Evaluation:
Step 2. Severe Impairment

6. When is obesity a "severe" impairment?

As with any other medical condition, we will find that obesity is a "severe" impairment when, alone or in combination with another medically determinable physical or mental impairment(s), it significantly limits an individual's physical or mental ability to do basic work activities. (For children applying for disability under title XVI, we will find that obesity is a "severe" impairment when it causes more than minimal functional limitations.) We will also consider the effects of any symptoms (such as pain or fatigue) that could limit functioning. (See SSR 85-28, "Titles II and XVI: Medical Impairments That Are Not Severe" and SSR 96-3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms In Determining Whether a Medically Determinable Impairment Is Severe.") Therefore, we will find that an impairment(s) is "not severe" only if it is a slight abnormality (or a combination of slight abnormalities) that has no more than a minimal effect on the individual's ability to do basic work activities (or, for a child applying under title XVI, if it causes no more than minimal functional limitations).

There is no specific level of weight or BMI that equates with a "severe" or a "not severe" impairment. Neither do descriptive terms for levels of obesity (e.g., "severe," "extreme," or "morbid" obesity) establish whether obesity is or is not a "severe" impairment for disability program purposes. Rather, we will do an individualized assessment of the impact of obesity on an individual's functioning when deciding whether the impairment is severe.

Sequential Evaluation
Step 3. The Listings

7. How do we evaluate obesity at step 3 of sequential evaluation, the listings?

Obesity may be a factor in both "meets" and "equals" determinations.

Because there is no listing for obesity, we will find that an individual with obesity "meets" the requirements of a listing if he or she has another impairment that, by itself, meets the requirements of a listing. We will also find that a listing is met if there is an impairment that, in combination with obesity, meets the requirements of a listing. For example, obesity may increase the severity of coexisting or related impairments to the extent that the combination of impairments meets the requirements of a listing. This is especially true of musculoskeletal, respiratory, and cardiovascular impairments. It may also be true for other coexisting or related impairments, including mental disorders.

For example, when evaluating impairments under mental disorder listings 12.05C, 112.05D, or 112.05F, obesity that is "severe," as explained in question 6, satisfies the criteria in listing 12.05C for a physical impairment imposing an additional and significant work-related limitation of function and in listings 112.05D and 112.05F for a physical impairment imposing an additional and significant limitation of function. We will find the requirements of listing 12.05 are met if an individual's impairment satisfies the diagnostic description in the introductory paragraph of listing 12.05 and any one of the four sets of criteria in the listing. In the case of an individual under age 18, we will find that the requirements of listing 112.05 are met if the child's impairment satisfies the diagnostic description in the introductory paragraph of listing 112.05 and any one of the six sets of criteria in the listing. (See sections 12.00A and 112.00A of the listings.)

We may also find that obesity, by itself, is medically equivalent to a listed impairment (or, in the case of a child applying under title XVI, also functionally equivalent to the listings). For example, if the obesity is of such a level that it results in an inability to ambulate effectively, as defined in sections 1.00B2b or 101.00B2b of the listings, it may substitute for the major dysfunction of a joint(s) due to any cause (and its associated criteria), with the involvement of one major peripheral weight-bearing joint in listings 1.02A or 101.02A, and we will then make a finding of medical equivalence. (See question 8 for further discussion of evaluating the functional effects of obesity, including functional equivalence determinations for children applying for benefits under title XVI.)

We will also find equivalence if an individual has multiple impairments, including obesity, no one of which meets or equals the requirements of a listing, but the combination of impairments is equivalent in severity to a listed impairment. For example, obesity affects the cardiovascular and respiratory systems because of the increased workload the additional body mass places on these systems. Obesity makes it harder for the chest and lungs to expand. This means that the respiratory system must work harder to provide needed oxygen. This in turn makes the heart work harder to pump blood to carry oxygen to the body. Because the body is working harder at rest, its ability to perform additional work is less than would otherwise be expected. Thus, we may find that the combination of a pulmonary or cardiovascular impairment and obesity has signs, symptoms, and laboratory findings that are of equal medical significance to one of the respiratory or cardiovascular listings.⁷

However, we will not make assumptions about the severity or functional effects of obesity combined with other impairments. Obesity in combination with another impairment may or may not increase the severity or functional limitations of the other impairment. We will evaluate each case based on the information in the case record.

Sequential Evaluation:

Steps 4 and 5. Assessing Functioning in Adults

Step 3. Assessing Functional Equivalence in Children

8. How do we evaluate obesity in assessing residual functional capacity in adults and functional equivalence in children?

Obesity can cause limitation of function. The functions likely to be limited depend on many factors, including where the excess weight is carried. An individual may have limitations in any of the exertional functions such as sitting, standing, walking, lifting, carrying, pushing, and pulling. It may also affect ability to do postural functions, such as climbing, balance, stooping, and crouching. The ability to manipulate may be affected by the presence of adipose (fatty) tissue in the hands and fingers. The ability to tolerate extreme heat, humidity, or hazards may also be affected.

The effects of obesity may not be obvious. For example, some people with obesity also have sleep apnea. This can lead to drowsiness and lack of mental clarity during the day. Obesity may also affect an individual's social functioning.

An assessment should also be made of the effect obesity has upon the individual's ability to perform routine movement and necessary physical activity within the work environment. Individuals with obesity may have problems with the ability to sustain a function over time. As explained in SSR 96-8p ("Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims"), our RFC assessments must consider an individual's maximum remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A "regular and continuing basis" means 8 hours a day, for 5 days a week, or an equivalent work schedule.⁷ In cases involving obesity, fatigue may affect the individual's physical and mental ability to sustain work activity. This may be particularly true in cases involving sleep apnea.

The combined effects of obesity with other impairments may be greater than might be expected without obesity. For example, someone with obesity and arthritis affecting a weight-bearing joint may have more pain and limitation than might be expected from the arthritis alone.

For a child applying for benefits under title XVI, we may evaluate the functional consequences of obesity (either alone or in combination with other impairments) to decide if the child's impairment(s) functionally equals the listings. For example, the functional limitations imposed by obesity, by itself or in combination with another impairment(s), may establish an extreme limitation in one domain of functioning (e.g., Moving about and manipulating objects) or marked limitations in two domains (e.g., Moving about and manipulating objects and Caring for yourself).

As with any other impairment, we will explain how we reached our conclusions on whether obesity caused any physical or mental limitations.

9. How can we consider obesity in the assessment of RFC when SSR 96-8p says, "Age and body habitus are not factors in assessing RFC"?

The SSR goes on to say that "[i]t is incorrect to find that an individual has limitations beyond those caused by his or her medically determinable impairment(s) and any related symptoms, due to such factors as age and natural body build, and the activities the individual was accustomed to doing in his or her previous work." (Emphasis added.) We included the italicized statement in the SSR to distinguish between individuals who have a medically determinable impairment of obesity and individuals who do not. When we identify obesity as a medically determinable impairment (see question 4, above), we will consider any functional limitations resulting from the obesity in the RFC assessment, in addition to any limitations resulting from any other physical or mental impairments that we identify.

Effect of the Rules Change:

Claims in Which Prior Listings Apply and Do Not Apply

10. How does the deletion of listing 9.09 affect claims pending on October 25, 1999?

The final rules that deleted the listing became effective on October 25, 1999. The final rules deleting listing 9.09 apply to claims that were filed before October 25, 1999, and that were awaiting an initial determination or that were pending appeal at any level of the administrative review process or that had been appealed to court. The change affected the entire claim, including the period before October 25, 1999. This is our usual policy with respect to any change in our listings.

However, different rules apply to individuals who were already found eligible to receive benefits prior to October 25, 1999. For an explanation of how we apply listing 9.09 in continuing disability reviews, see question 11.

11. How does deletion of listing 9.09 affect claims already allowed?

Deletion of listing 9.09 does not affect the entitlement or eligibility of individuals receiving benefits because their impairment(s) met or equaled that listing. We will not find that their disabilities have ended just because we deleted listing 9.09.

We must periodically review all claims to determine whether the individual's disability continues. When we conduct a periodic continuing disability review (CDR), we will not find that an individual's disability has ended based on a change in a listing. For individuals receiving disability benefits under title II and adults receiving payments under title XVI, we apply the medical improvement review standard described in 20 CFR 404.1594 and 416.994.

We will first evaluate whether the individual's impairment(s) has medically improved and, if so, whether any medical improvement is related to the ability to work. If the individual's impairment(s) has not medically improved, we will find that he or she is still disabled, unless we find that an exception to the medical improvement standard applies. Even if the impairment(s) has medically improved, we will find that the improvement is not related to the ability to work if the impairment(s) continues to meet or equal the same listing section used to make our most recent favorable decision. This is true even if we have since deleted the listing section that we used to make the most recent favorable decision. See 20 CFR 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A). We apply a similar provision when we do CDRs for individuals who have not attained age 18 and who are eligible for title XVI benefits based on disability (20 CFR 416.994a(b)(2)).

Even if the individual's impairment(s) has medically improved and no longer meets or equals prior listing 9.09, we must still determine whether he or she is currently disabled, considering all of the impairments.

12. What amount of weight loss would represent "medical improvement"?

Because an individual's weight may fluctuate over time and minor weight changes are of little significance to an individual's ability to function, it is not appropriate to conclude that an individual with obesity has medically improved because of a minor weight loss. A loss of less than 10 percent of initial body weight is too minor to result in a finding that there has been medical improvement in the obesity. However, we will consider that obesity has medically improved if an individual maintains a consistent loss of at least 10 percent of body weight for at least 12 months. We will not count minor, short-term changes in weight when we decide whether an individual has maintained the loss consistently.

If there is a coexisting or related condition(s) and the obesity has not improved, we will still consider whether the coexisting or related condition(s) has medically improved.

If we find that there has been medical improvement in obesity or in any coexisting or related condition(s), we must also decide whether the medical improvement is related to the ability to work. If necessary, we will also decide whether any exceptions to the medical improvement review standard apply and, if appropriate, whether the individual is currently disabled.

13. What are the goals and methods of treatment for obesity?

Obesity is a disease that requires treatment, although in most people the effect of treatment is limited. However, if untreated, it tends to progress.

A common misconception is that the goal of treatment is to reduce weight to a "normal" level. Actually, the goal of realistic medical treatment for obesity is only to reduce weight by a reasonable amount that will improve health and quality of life. People with extreme obesity, even with treatment, will generally continue to have obesity. Despite short-term progress, most treatments for obesity do not have a high success rate.

Recommended treatment for obesity depends upon the level of obesity. At levels I and II (BMI 30.0-39.9), treatment usually consists of behavior modification (diet and exercise) with the option of medication, usually either in the form of a fat-blocking drug or an appetite suppressant. Some people do not respond to medication, while others experience negative side effects. (In making our decision, we will also consider any side effects of medication the individual experiences.) Individuals with coexisting or related conditions may not be able to take medication because of its effects on their other conditions.

Generally, physicians recommend surgery when obesity has reached level III (BMI 40 or greater). However, surgery may also be an option at level II (BMI 35-39.9) if there is a serious coexisting or related condition. Obesity surgery modifies the stomach, the intestines, or both in order to reduce the amount of food that the individual can eat at one meal or the time food is available for digestion and absorption. Surgery is generally a last resort with individuals for whom other forms of treatment have failed. Some individuals also experience significant negative side effects from surgery (e.g., "dumping syndrome" – that is, rapid emptying of the stomach's contents marked by various signs and symptoms).

Obesity is a life-long disease. Even when treatment has been successful, individuals with obesity generally need to stay in treatment or they will gain weight again, just as individuals with other impairments may need to stay in treatment. Individuals who have had surgery should receive continuing follow-up care because of health risks related to the surgery. As with other chronic disorders, effective treatment of obesity requires regular medical follow-up.

14. How do we evaluate failure to follow prescribed treatment in obesity cases?

Before failure to follow prescribed treatment for obesity can become an issue in a case, we must first find that the individual is disabled because of obesity or a combination of obesity and another impairment(s). Our regulations at 20 CFR 404.1530 and 416.930 provide that, in order to get benefits, an individual must follow treatment prescribed by his or her physician if the treatment can restore the ability to work, unless the individual has an acceptable reason for failing to follow the prescribed treatment. We will rarely use "failure to follow prescribed treatment" for obesity to deny or cease benefits.

SSR 82-59, "Titles II and XVI: Failure To Follow Prescribed Treatment," explains that we will find failure to follow prescribed treatment only when all of the following conditions exist:

- The individual has an impairment(s) that meets the definition of disability, including the duration requirement, and
- A treating source has prescribed treatment that is clearly expected to restore the ability to engage in substantial gainful activity, and
- The evidence shows that the individual has failed to follow prescribed treatment without a good reason.

If an individual who is disabled because of obesity (alone or in combination with another impairment(s)) does not have a treating source who has prescribed treatment for the obesity, there is no issue of failure to follow prescribed treatment.

The treatment must be prescribed by a treating source, as defined in our regulations at 20 CFR 404.1502 and 416.902, not simply recommended. A treating source's statement that an individual "should" lose weight or has "been advised" to get more exercise is not prescribed treatment.

degenerative (7240), etc., etc., etc.,	etc., etc., etc.,
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Allegation(s)

javascript:hideShowDataViewSection(%22Impairments,LimitationsandPain-InitialLevel%22) **Impairments, Limitations and Pain - Initial Level**

Alleged Impairments: Back pain that affects right leg

Limitations: I can't sit or stand for long periods of time. I can't walk that well because of my right leg pain. I can't do a lot of things now that I could do when I was healthy--like I can't work on my truck or play with my son. I can't stand or walk more than 10 minutes at a time. I can't think when I am in pain--I just think about sitting down or lying down. I have a difficult time concentrating.

Pain/Other Symptoms: Yes

Impairments First Interfered With Ability to Work: 08/22/2006

Height: 5' 9"

Weight: 325 lbs.

Client Remarks - 3368: I injured myself because I fell off the lawn mower and had to maneuver it so it wouldn't hit the car that was coming.

javascript:hideShowDataViewSection(%22EffectonWork-InitialLevel%22) **Effect on Work - Initial Level**

When a treating source has prescribed treatment for obesity, the treatment must clearly be expected to improve the impairment to the extent that the person will not be disabled. As noted in question 13, the goals of treatment for obesity are generally modest, and treatment is often ineffective. Therefore, we will not find failure to follow prescribed treatment unless there is clear evidence that treatment would be successful. The obesity must be expected to improve to the point at which the individual would not meet our definition of disability, considering not only the obesity, but any other impairment(s).

Finally, even if we find that a treating source has prescribed treatment for obesity, that the treatment is clearly expected to restore the ability to engage in SGA, and that the individual is not following the prescribed treatment, we must still consider whether the individual has a good reason for doing so. In making this finding, we will follow the guidance in our regulations and SSR 82-59, which provide that acceptable justifications for failing to follow prescribed treatment include, but are not limited to, the following:

- The specific medical treatment is contrary to the teaching and tenets of the individual's religion.
- The individual is unable to afford prescribed treatment that he or she is willing to accept, but for which free community resources are unavailable.
- The treatment carries a high degree of risk because of the enormity or unusual nature of the procedure.

In this regard, most health insurance plans and Medicare do not defray the expense of treatment for obesity. Thus, an individual who might benefit from behavioral or drug therapy might not be able to afford it. Also, because not enough is known about the long-term effects of medications used to treat obesity, some people may be reluctant to use them due to the potential risk.

Because of the risks and potential side effects of surgery for obesity, we will not find that an individual has failed to follow prescribed treatment for obesity when the prescribed treatment is surgery.

EFFECTIVE DATE: This Ruling is effective upon publication in the Federal Register.

CROSS-REFERENCES: SSR 82-52, "Titles II and XVI: Duration of the Impairment;" SSR 82-59, "Titles II and XVI: Failure To Follow Prescribed Treatment;" SSR 85-28, "Titles II and XVI: Medical Impairments That Are Not Severe;" SSR 96-3p, "Titles II and XVI: Considering Allegations of Pain and Other Symptoms In Determining Whether a Medically Determinable Impairment Is Severe;" SSR 96-6p, "Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review: Medical Equivalence;" SSR 96-8p, "Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims;" and Program Operations Manual System sections DI 23010.005 ff., DI 24510.006, DI 24570.001, DI 34001.010, DI 34001.014, and DI 34001.016.

See Next Page

Ever Worked: Yes

Working Now: No

When Stopped: 09/15/2006

Stopped Working Because: Because of the pain.

Work After Impairment First Interfered: Yes

Change Attendance: Yes

Explanation: I was injured 08/22/2006. I was off for a couple of weeks and then I went back for one day and couldn't stand the pain and had to stop working.

[javascript:hideShowDataViewSection\(%22Impairments,LimitationsandEffects-ReconsiderationLevel%22\)](#)

Impairments, Limitations and Effects - Reconsideration Level

Any Changes in Condition: Yes

Changes in Condition: The pain in back and right leg is getting worse.

Date Occurred: unknown

Any New Illnesses or Injuries: Yes

New Illnesses, Injuries, or Conditions: getting harder to do everyday things

Date Occurred: unknown

Any New Limitations: Yes

New Limitations: can't walk that well.

Date Occurred: unknown

How Condition Affects Ability to Care It make it harder to which I can't bend over I have to get someone to help for Personal Needs: me and people have to be there for me most of the time

How Daily Activities Changed: none

Work Since Original Claim Filed: No

Submitting New Evidence: No

Reason Appeal Requested: I AM DISABLED

[javascript:hideShowDataViewSection\(%22Impairments,LimitationsandEffects-HearingLevel%22\)](#)

Impairments, Limitations and Effects - Hearing Level

Any Changes in Condition: Yes

Changes in Condition: The pain is getting worse

Date Occurred: none

Any New Illnesses or Injuries: No

Any New Limitations: No

How Condition Affects Ability to Care It takes me a very long time to do stuff. I have to sit down because of the for Personal Needs: pain.

How Daily Activities Changed: It is getting harder to do stuff.

Worked Since Filing For Reconsideration: No

Submitting New Evidence: No

Reason Appeal Requested: NONE PROVIDED

See Next Page

(20 CFR 404.1520(c) and 416.920(c)).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d) and 416.920(d)). After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform sedentary work except the record shows the claimant is functional⁸ below the sedentary level for any sustained, continual or regular activity⁹. In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

STATEMENT OF THE CASE:

The claimant filed a concurrent claim alleging a date of onset of 8/22/06; last SGA 8/06, date of filing 7/5/07, which would give a first date of entitlement for DIB benefits of 2/07 and SSI benefits of 8/1/07. The PIA is unknown. The ACEH is unknown. The claim does involve a workers' compensation case with a date of onset of 8/22/06, being an injury to the right hip, low back, with radicular pain into the right leg as well as situational depression.

The claim does involve *obesity*, which is a material factor in the claim which will be discussed with particularity hereinafter.

The rates of compensation, by agreement of the parties, are \$213.36 for temporary total disability as well as permanent partial disability and a total of 16 weeks has been paid from 11/3/06 to 2/22/07. No adjudicatory orders have been entered in the case, only a Form A appointing Dr. _____, a treating physician.

⁸ Residual functional capacity is the claimant's maximum remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A "regular and continuing basis" means eight (8) hours a day, for five (5) days (i.e., forty (40) hours) a week or an equivalent work schedule (Social Security Ruling 96-8p). The claimant must have both the mental and physical abilities to perform sustained work activities. Since the evidence supports a finding that the claimant has had a substantial loss of ability to meet the demands of basic work related activities on a sustained basis, the unskilled, sedentary occupational base is significantly eroded and a finding of disability is justified under Social Security Ruling 96-9p. 88

⁹ Social Security Ruling 96-8p provides that a finding of disabled is appropriate whenever there is an inability to persist at work-like tasks for the full course of an 8-hour workday or 5-day workweek. Clearly, the claimant's medically determinable severe impairments preclude the claimant from engaging in substantial gainful activity on a regular and continuing basis. Social Security Ruling 96-9p stipulates that an individual who has the residual functional capacity for less than a full range of sedentary work should be considered disabled if their restrictions would significantly erode the occupational base for sedentary work. The claimant is markedly, functionally limited. Thus, a finding of disabled is warranted. Medical-Vocational Rule 201.00 (h) Appendix 2, Subpart P, Regulations No. 4 may be used as the framework for the decision. It directs a finding of disabled. Social Security Ruling 85-15 and Social Security Ruling 96-9p both stipulate that an individual must, on a sustained basis, be able to understand, remember and carry out simple instructions; make simple work-related decisions; respond appropriately to supervision, coworkers, usual work situations and to deal with changes in a routine work setting. A substantial loss of ability to meet any one of these basic work-related activities would severely limit the potential occupational base for all age groups and warrant a finding of disabled.

PERSONAL HISTORY:

[redacted] resides at [redacted] SSN is [redacted]
[redacted] has a date of birth of [redacted] 24 years of age, is single having never been married, and lives with his mother and minor son, who is dependent:
[redacted]

The claimant appears to have a prior application, is a United States citizen by birth, has no felony convictions and has no prior workers' compensation claims.

EDUCATION: The claimant graduated high school from [redacted] in [redacted] attempted to go to a Junior College for only one semester and entered Job Corp, where he received a certificate for "facility maintenance." The claimant has no military service, does not have an [redacted] as it was suspended for failure to have insurance.

* The claimant appears to have a learning disability and is very slow and was a poor student.

EARNINGS: (See Exhibit in the record)

WORK HISTORY:

Employer	Type of Work	Wages	Dates
[redacted]	Landscaping	\$8.00 hr x 40	(3 mo) to 8/22/06 Seasonal Work

Duties involved lifting occasionally 50 pounds, frequently 20 pounds, with walking, standing, bending, stooping, balance, and bilateral use of the hands. The claimant states he was the "foreman" in that he had two other people which he supervised in his crew, he directed their work and had no right to hire and fire.

[redacted]	Landscaping		(3 mo) to Seasonal Work
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Duties involved lifting occasionally 50 pounds, frequently 20 pounds, with walking, standing, bending, stooping, balance, and bilateral use of the hands.

[redacted]	Landscaping	Wages unknown	Off and on for 3 years
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Duties involved lifting occasionally 50 pounds, frequently 20 pounds, with walking, standing, bending, stooping, balance, and bilateral use of the hands.

PRIOR INJURIES/ACCIDENTS AND MEDICAL:

13 years **Oklahoma City Children's Hospital**
Surgery, chronic ear infections

2001 broken ankle – two surgeries

Splinter in eye while working in wood shop – no claim filed

FACTS OF ACCIDENT/INJURIES SUSTAINED:

On 8/22/06, the claimant was pushing a large 42 inch mower on the side of a hill and twisted and injured himself when he tried to brace himself and thereby sustained an injury to his right hip and back. The patient was initially seen at [REDACTED]. He was given medications and returned to work. The following day, he tried to return to work but could not due to the severe pain in his right hip and back. He was seen in the ER, evaluated and given medication and referred back to [REDACTED]. On follow up, the patient was again placed on medication and released back to regular duty.

The patient continued to have pain in his right hip and back and noticed the pain radiating up into his back and became severe.

The patient has constant pain in his right hip and has difficulty sitting, standing, going up and down stairs, or inclines. The patient cannot squat or kneel. He rates his pain at a 10 on a 10 point scale. He states the pain moves up his right hip and into his leg and from his right hip into his lower back. He states he has pain in hip that will go down to his calf causing numbness and tingling into the foot.

The Honorable Richard Blanchard entered an Order selecting Dr. [REDACTED] as a treating physician in the workers' compensation case. Dr. [REDACTED] examined the patient on December 11, 2006, and his report is of record. Based upon the claimant's signs and symptoms, Dr. [REDACTED] ordered an MRI and ordered medications for pain and muscle spasms.

Physical examination on December 11, 2006, revealed: weight 326 pounds, height 5'9", BP 132/90. Examination of the lumbar spine reveals moderate tenderness, limitation of motion, as well as positive straight leg raising.

A medical summary of treatment is included herein. The claimant presently is still under treatment by the treating physician, M.D.

MEDICAL SUMMARY

DOCUMENTS

Form 2- None

5/22/07 AMENDED FORM 3: PSYCH OVERLAY

Wages Records

11/26/07 Dr.
Follow-up appt w/an updated MRI Scan. Clmt has an L-4-5 right par median disc protrusion w/disc desiccation at L-4-5 and L-5, S-1. Clmt was unable to locate his lumbar myelogram and contrast CT scan, which reportedly show the pars defects at L-5 w/ a Grade I spondylolisthesis at L-5, S-1. Dr. [redacted] has again assessed Clmt's body habitus and his current weight of still being over 350 lbs and thinks that it would be in the Clmt's best interest to not undergo surgery at this time due to his size. Dr. [redacted] advised the Clmt that if he could get to 300 lbs or less then Dr. [redacted] would reconsider. Meanwhile, Dr. [redacted] is recommending that the Clmt undergo a FCE for permanent restrictions.

11/7/07 Dr.
Follow-up appt...Dr. [redacted] recommends surgery, but Clmt needs to lose about 50 lbs. Clmt doing same, back is still painful. Needs refill of Percocet. Gave Rx of Percodan 5/325 #90 3xday, no refill; and another Rx for Percodan 5/325 #90 3xday, not to be filled until 12-7-07. Will see back after first of year for follow-up and hopefully Clmt will have lost some of the weight that he needs to lose before Dr. [redacted] does surgery.

11/5/07 Dr.
Took history of incident...Per Dr. [redacted], surgery is an option, but due to Clmt's obesity, not feasible at this time. Dr. [redacted] took x-rays of lumbar spine, but results are less than optimal due to Clmt's body habitus and failure for the beam to penetrate the Clmt's body weight sufficiently, although Dr. [redacted] could detect the presence of Grade I spondylotic spondylolisthesis. Dr. [redacted] noted that Clmt's MRI was done nearly a year ago and the myelogram and CT Scan were not at this appointment for his review. Dr. [redacted] recommends an updated high resolution MRI, Clmt will retrieve his myelogram and CT Scan and bring them in after the HR/MRI for Dr. [redacted]'s review. Feels that Clmt's problem could be treated

surgically in normal weight people, but shares Dr. [REDACTED]'s concerns about proceeding to surgery in a patient this size. Dr. [REDACTED] will review the recommended studies and go over the Clmt's risks/potential options before making a final determination... Clmt needs to avoid any repetitive bending, twisting or lifting greater than 10 lbs and needs to alternate between sitting and standing at his discretion.

10/8/07

Dr. [REDACTED]

Follow up herniated disc... need his Percasits refilled... they are current... the court apparently appointed either Dr. [REDACTED] or Dr. [REDACTED] and he has his appt. November 5... no marked distress... blood pressure 130/86... normal gate... persistent tenderness in the low back... leg raises positive on the right.

9/19/07

Dr. [REDACTED]

1. Weight reduction surgery most likely will need to be necessary procedure in order to get this gentleman back to where he can return to the work force. In dealing with this type of individual you have to treat the whole person as opposed to just the spine and ignore the rest of the individual.
2. If Dr. [REDACTED] or Dr. [REDACTED] feels that they are "capable of" the challenge... I would not have any problems referring Mr. [REDACTED] to these physicians.
3. No further surgery is perused by the patient:
 - A. left CE should be done before MMI
 - B. vocational evaluation should be obtained
 - C. medication management for pain and limitations should occur
 - D. it should be long term pain management
4. A neuropsych Eval is not necessary this man is currently on Effexor and is doing better regarding his depression
5. This gentleman remains TTD

9/14/07

Dr. [REDACTED]

Follow up medication management low back... I am seeing him until the court decides what to do with regard his morbid obesity and disc herniation... I have not seen [REDACTED] since March... He ran out of medications and is seeing his PCP Dr. [REDACTED]... present time pain level is 10/10... It will go down to a 7 if he is very inactive today [REDACTED] moves reasonably well... blood pressure 136/98... [REDACTED] medications are altered today... Celebrex, Zanaflex, Percasits, Effexor... for depression and mood... refillable 3x follow up one month

9/6/07

Dr. [REDACTED]

Response to ct. questions:

1. I cannot state whether he should undergo a gastric bypass surgery... ask a bariatric surgeon.
2. It is my opinion he has an aggravation of pre-existing injury: grade I L5/S1 spondylolisthesis and bilateral pars defect. As concerns to whether or not the right L4/5 disc protrusion is work related I presume that to be so.

Unfortunately one cannot be treated without treating the other so as a result the suggested surgery is most likely the result of the injury on 8/22/06.

3. Unless [REDACTED] could realize substantial weight loss... 100+ lbs. It would not be worth while to do surgery nor would I consider it because of the risks associated... whether he had a gastric stapling or not. In addition if he were to loose that amount of weight, as he is only 24 years of age, he might avoid surgery altogether.

6/25/07

Dr.

received report from Dr. ... concerning [REDACTED] and a letter from Ms. ... for the need for ongoing medical management. As you are aware the patient is morbidly obese and based on his morbid obesity and findings of milligrams, CT and MRI, Dr. ... did not feel surgery is warranted until the patient could undergo weight reduction measures which would include gastric bypass procedure... I have been asked by Ms. ... if I would be willing to revive this medication management until he has lost the weight he needs in order for Dr. ... to proceed w/ some type of surgical intervention.

Based on these circumstances I will be able to continue medical maintenance on this individual if the court so desires...however, he is such a young individual w/ some type of resolution will need to be obtained w/in the reasonable period of time.

6/04/07

Dr.

apparently [REDACTED] is having significant problems from an emotional standpoint , not just from his back and leg pain...

X-rays: lumbar milligram and CT and MRI...I don't find a significant disc herniation that might be helped by a more simple procedure such as a right L4/5 diskectomy.

Recommendations: it is my opinion that diskectomy above the level of the spondylosis is usually not helpful...in this case w/o more over whelming findings, surgery would be a set up for failure...his morbid obesity prevents him an ideal milligram and CT scan, but there is enough resolution combined w/ the MRI to make what I believe is a sound medical decision.

Regard to his emotional health, I received a letter from attorney [REDACTED] directing him to apparently free psychiatric clinics, b/c of significant depression. It is my opinion, this is a secondary dx related to his overall condition and he may benefit from neuropsychological evaluation and counseling. None the less, my opinion remains the same that his morbid obesity prevents any reasonable successful surgery based on his diagnostic findings....unless [REDACTED] is unable to achieve significant weight reduction he would not be a surgical candidate and the risk would far out weigh any benefits.

Therefore it is my opinion at the present time he can be released from my care having reached MMI from a neurosurgical standpoint....

Work restrictions: permanent 10lb weight limit, w/ 10lb pushing/pulling as noted on my May 10, 2005 form 5.

5/11/07 Dr. I

Form 5- released to modified work...restricting lifting 10lbs, push/pull 10lbs...continuing med tx yes.

4/19/07 Dr.

f/u of his low back and right hip injury...has seen Dr. , and feels like he is a surgical candidate and has scheduled a myelogram CT for him on 4/25/07....Dr. I is going to follow up again w/ him on the May 10th....

Today, state he is about the same.....still has numbness in his leg and he states his medications are getting low.

Today, moves about reasonably well....still has persistent pain in his low back on the right and straight leg raising is still positive on the right....

It is my opinion at this time that the patient is in need of ongoing medical care per the direction of Dr.I will not give him a return appointment....he has been advised to get his medications and refilled and they are refillable x2....we will not need to see him back unless so directed by the Court.

4/12/07 Dr.

Form 5- TTD until myelogram

4/12/07 Dr.

f/u...had pt....offered some minor improvement, and the first ESI was beneficial but the second was not....cx of back and right leg pain that has remained persistent and severe....he rates the pain as 10 out of 10....has subjective weakness in the right leg, as the leg will sometimes buckle and give away w/ walking.

Impression

1. Right L4/5 disc herniation and bilateral L4/5 pars defects w/ probable complete defect on the left at L5....only a minimal grade 1, L5/S1 spondylolisthesis
2. Degenerative L4/5, L5/S1 disc disease

Recommendations

1. He is in need of a lumbar myelogram and CT scan w/ flexion and extension films.

2. Either require a right L4/5 hemilaminectomy and discectomy or an L4/5, L5/S1 TLIF and L4 to sacral fusion w/ instrumentation...according to [REDACTED] his sx are severe and have not improved...might be possible just to consider an L4/5 discectomy as he has primarily back and right-leg pain...myelogram and CT scan will be very beneficial, particularly in regard to the L5 segment.

Work status: I don't think he can realistically work under his current medical conditions and should remain TTD until the lumbar myelogram and CT scan is performed and a f/u appointment will be made afterwards.

4/04/07 Dr. [REDACTED]
Form 5- modified work....continue med tx.....

4/04/07 Dr. S
PROCEDURE REPORT

Dx
1. Lumbar disc displacement

Name of Procedure: lumbar ESI #2 at L4/5.

AP and lateral x-ray showed needle placement in the L4/5 position w/ contrast in the epidural space, not to be intravascular or intrathecal.

Plan: f/u.

2/22/07 Dr. [REDACTED]
patient is to be seen by Dr. [REDACTED] ...thought he should undergo initial conservative management...series of ESI's and pt for 12 visits....patient still having back pain that radiates in right hip and leg...he states standing, walking, stooping, bending and twisting makes symptoms worse.

F/u Dr. [REDACTED] ...continue medications Tramadol and Flexeril...f/u one month.

Rx: shower chair

2/15/07 Dr. [REDACTED]
...constant aching, throbbing, burning and tingling sensation that will awaken him at night...pain is 10/10...aggravated w/ most activities, particularly walking and somewhat improved w/ sedentary activities....subjective weakness of the right leg...trouble w/ walking b/c of the right leg wants to buckle and give out...urinary frequency is associated....pain extends down to the right foot w/ numbness of all toes and the right foot.

MRI 12/15/06 negative right hips.

MRI lumbar spine- paracentral right protrusion w/ subarticular protrusion at L4/5 and central L5/S1 disc herniation....appears to be a near complete pars defect at L5 on the left....

Dx

1. right paracentral L5 disc herniation and central L5/S1 disc herniation that appears to be secondary to work related injury....
2. bilateral pars defect w/ almost a complete deficit at L5 on the left, but no spondylolisthesis
3. degenerative L4/5, L5/S1 disc disease.

Rx

1. pt comprehends of program...
2. trial ESI
3. f/u 8wks....alternative surgical solutions would be a right L4/5 discectomy or an L4/5, L5/S1 PLIF infusion w/ instrumentation...hx w/ these patients w/ ruptured disc above L5/S1 w/ pars defect often do poorly....discectomy seems to aggravate the spondylolisthesis below and creates back pain postoperatively w/ less than ideal recovery. That is still an option as the alternative at L4/5, L5/S1 PLIF infusion w/ instrumentation.
4. he understands his condition....

Restrictions: TTD by my observation of his ambulation....i don't think there is really realistic that he can do and could certainly put himself or fellow employees in harms way

2/15/07 Dr. [redacted] -FORM 5

TTD....

Recommend: L-ESI, and pt 12 visits....continuing treatment

1/03/07 Dr. J

MRI of the right hip was unrevealing....MRI of lumbar spine was significant and he has a right paracentral and subarticular disc protrusion at L4/5 that could effect the transferring L5 nerve root as well as the exiting L4 nerve root in this area....small disk protrusion w/ associated DDD....pars interarcularis thinning bilaterally w/ a near complete defect at L5 on the left....positive SLR at 60 degrees...

My opinion the patient has a disk herniation at L4/5 on the right representing a permanent anatomical abnormality and is need of further medical care....i recommend that he be seen by neurosurgeons in Dr. [redacted] group....TTD and need of medical care....Rx: Flexeril and Tramadol.

2006

12/15/06 MRI / hips

1. negative
2. DDD at L4/5 and L5/S1

12/15/06 MRI / Lumbar Spine

1. Disc protrusion L4/5... mild DDD... could be traversing L5 nerve right as well as exiting L4 nerve root
2. Small central disc protrusion L5/S1 with moderate DDD
3. Bilateral parse... thinning with near complete defect at L5 on the left
4. Moderate congenital spinal canal stenosis
5. Normal... muscles bilateral

12/14/06 Deposition of [REDACTED]

12/11/06 Dr. [REDACTED]

1. patient needs further medical care.
2. possibly sustained a labrial injury to right hip.
3. Rx: MRI lumbar spine and right hip
4. medications Celebrex, Zanaflex
5. f/u
6. TTD at this time and has been since September 5, 2006

9/7/06 [REDACTED]

23 y/o who has an on-the-job injury on August 22....hurt his back and he has been working w/ [REDACTED] went back to work yesterday and they said he should not have any more pain or problems and not he is having some problems after he started going back to work yesterday....no numbness or tingling....no incontinence....pain starts in his hips and goes down all the way through his leg...denies any new trauma. He is taking some medications for his leg....but he does not know what they are and he is really almost out of them.

Dx:

1. on the job injury
2. sciatica

He was taken to the exam room and interviewed....I will place him on Flexeril, prednisone and Lortab...f/u w/ Concentra in the next 2-3 days....stable and discharged....

9/7/06 [REDACTED]

[REDACTED] was discharged to go home...should be able to rtw after released by the doctor.

Limitations

1. slowly return to you usual activities

2. avoid lifting, pushing, or pulling
3. avoid sitting for long periods
4. do your back exercises regularly
5. keep f/u appointment
6. take meds

9/05/06

injured 8/22/06 right leg and hip using walk behind lawn mower and it slipped and I tried to brace myself...patient has not been working b/c he chose not to work...he feels a pattern of sx is about the same...he states does want to get back to regular duty.

Physical exam: palpation is positive for pain at the laterally on the right.

Dx: hip strain

Activity status: regular activity released from care today...return to clinic as needed. Patient will reach MMI in about 1 wk according to the guideline 0% PPD.

9/05/06

Dr. [redacted]
released from care....return to regular duty 9/5/06

Dx: sprain of unspecified site of hip and thigh

9/05/06

Recheck list: right leg and hip....right hip and right leg lots of pain.

9/05/06

23 y/o male employee of [redacted]...cx about his leg which was leg which was injured 8/22/06...

Patient states: "injured right leg and hip using a walk behind lawn mower and it slipped and I tried to brace myself."

Hx: has not been working b/c he chose not to work;...feels the pattern of sx is about the same....he states he does want to get back to regular duty.

Assessment: hip strain

Plan: medications....regular activity release from my care today....f/u as needed.'

Notes: patient will reach MMI in about 1 week.

8/30/06

Concentra

recheck hip...patient states that is doing better.

8/30/06

23 y/o male employee of [REDACTED] who cx about his leg was injured
8/22/06

Hx: patient has been working their regular duty....feels the pattern of sx is improving and feels better....patient has had pt 3 times.

Exam: palpation is negative for pain

Assessment: hip strain

Plan: medications....regular activity not released from my care.

8/30/06

[REDACTED]
just woke up so it is not irritated

8/30/06

[REDACTED] (Dr. [REDACTED])
Dx: sprain of unspecified site of hip and thigh

Returning for following visit....return to regular duty 8/30/06

8/29/06

[REDACTED]
a little better today....pain is 5/10....tenderness remains late....

8/28/06

[REDACTED]
patient states he ? right hp while pushing a mower and slipped.

8/28/06

[REDACTED]
23 y/o male injured leg 8/22/06...."using walk behind lawn mower and it slipped and I tried to brace myself and injured right leg and hip".

Returns for recheck...working regular duty....pattern of symptoms is worsening....continues to have pain in his right hip that radiates down his right leg.

Exam: palpation is positive for pain at the area of the greater trochanteric and laterally over the tensor fascia lata.

Assessment: hip strain

Plan: medication, pt

Work status: regular activity

8/24/06

[REDACTED]
X-RAY RIGHT HIP

Exam shows no fracture, dislocation or acute boney abnormality.

Impression: negative right hip

8/23/06

23 y/o male employees of [redacted]

Hx: cx of pain in his right hip that radiates down is right lateral thigh, onset yesterday when he fell at work...denies any back pain, numbness or tingling..

X-ray: hip x-ray....no fracture seen.

Palpation at the hip is positive for pain at the greater trochanteric....

Assessment: hip strain

Plan: patient was instructed to elevate the extremity and to apply ice intermittently OTC medications.

Activity status: regular activity not released from care.

f/u....it is my opinion that the above injury and/or symptoms are more likely than not to be directly related to work activities.

8/22/06

[redacted] patient was mowing on a slope (push mower) had to strain to keep mower from slipping and felt a pop in his leg....pain in hip and thigh....pain is up when prolonged walking...

Assessment: patient to pt....pain and tingling in his toes.

2004

12/20/04

[redacted] 21 y/o employee of [redacted] about his eye which was injured 12/20/04.

Patient states: "saw dust in left eye"...

Hx: patient states he was putting something above his head....had saw dust on it which blew into his face and got into his eye....hurt so badly gave him a headache.

Assessment:

1. conjunctival foreign body
2. corneal abrasion

Plan: meds, regular activity not released from care....f/u:

CURRENT MEDICATIONS:

Tramadol 50 mg
Flexeril
Percocet 5 mg.
Celebrex 200 mg.
Effexor 75 mg.
Zanaflex q day to BID
Hypertension medication

FIVE STEP SEQUENTIAL DISABILITY EVALUATION:

Under the Five Step Sequential Disability Evaluation Process described in 20 C.F.R. Section 404.1520, the claimant has met the burden of proof as follows:

1. **That the claimant has not engaged in any "substantial gainful activity" (SGA) since 8/22/06.**
2. **The claimant has a "severe medically determinable impairment" to wit:**

Patient has a right paracentral and subarticular disc protrusion at L4-5 and it was felt by the radiologist that this disc protrusion could affect the transferring L5 nerve root as well as the exiting L4 nerve root in this area. He was also noted to have a small central disc protrusion at L5-S1 with associated degenerative disc disease. He was also found to have pars interarticularis thinning bilaterally with a near complete defect at L5 on the left.

**[REDACTED] M.D.
January 3, 2007**

**Obesity: Weight 350 pounds, Height 5'9"
Hypertension
Depression**

3. **These impairments meet or equal one of more of the impairments described in Social Security Regulations and the Listings of Impairment, to wit:**

See Next Page

1.04 Disorders of the spine (e.g. herniated nucleus pulposus, spinal stenosis, degenerative disk disease, resulting in compromise of a nerve root with:

A. Evidence of nerve root compression confirmed by MRI, pain, limitation of motion of the spine, muscle weakness accompanied by sensory loss with positive straight leg raising test (sitting and supine)

4. The claimant can not do past relevant work:

The claimant's past relevant work is grounds maintenance and landscaping, which required occasional lifting of 50 pounds and frequent lifting of 25 pounds, with standing, walking, lifting, stooping, bending, kneeling, crouching, climbing, repetitive twisting.

Notice of Reconsideration dated October 3, 2007:

"You said that you were unable to work because of back pain that affects the right leg.

The medical evidence shows the following: Although you are experiencing pain in your back, you are able to sit, stand, bend, and walk well enough to do some types of work. Medical evidence does not show any other impairments which keep you from working.

Your condition prevents you from doing your past work, but it does not prevent you from doing other work which is less demanding."

THE GRIDS:

Residual Functional Capacity: Maximum sustained work capacity is limited to sedentary work as a result of severe medically determinable impairments:

201.27 Younger individual, age 24, born [REDACTED] high school graduate with limited education, unskilled or none.

The GRIDS are of no assistance in resolving this case.

EXERTIONAL LIMITATIONS:

The claimant weighs 350 pounds, is 5'9", has difficulty going from a sitting position to a standing position, has marked antalgic gait and tends to favor his left leg as any weight bearing on the right leg is painful. The patient has limitations of sitting for 30 minutes, standing for 30 minutes, with inability to

lift anything over 25 pounds, with no bending, stooping, kneeling, crouching, crawling. Sit, stand, walk less than 2 hours out of an 8 hour day.

NON-EXERTIONAL LIMITATIONS:

Constant pain, relieved only with narcotic medication, with the need to get off his feet and lie down due to constant pain and muscle spasms, and situational depression.

5. Other work in the national economy within the limitations:

Residual functional capacity is the claimant's maximum remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. A "regular and continuing basis" means 8 hours per day for 5 days a week or an equivalent work schedule. Social Security Ruling 96-8p. The claimant must have both the mental and physical abilities to perform sustained work activities. Because the evidence supports a finding that the claimant has had a substantial loss of ability to meet the demands of basic work related activities on a sustained basis, the unskilled sedentary occupational base is significantly eroded and a finding of disabled is justified under Social Security Ruling 96-9p. The claimant is disabled within the meaning of the Social Security Act and Regulations.

Therefore, based upon the claimant's residual functional capacity, based upon the claimant's age, education and work experience, superimposing the limitations caused by the severe medially determinable impairments, there are no jobs within the national economy that the claimant can perform on a regular basis within the limitations imposed and, therefore, is entitled to a finding by this United States Administrative Law Judge of "disabled."

Various physicians, treating and non-treating, have written that the claimant suffered from various medical problems and that the claimant has significant work restrictions. While the finding that a person is "disabled" under the provisions of the Social Security Act is an issue reserved to the Commissioner (SSR 96-5p1), opinions from any medical source on issues reserved to the Commissioner must never be ignored. The adjudicator is required to evaluate all evidence in the case record that may have a bearing on the determination or decision of disability, including opinions from medical sources about issues reserved to the Commissioner. If the case record contains an opinion from a medical source on an issue reserved to the Commissioner, the adjudicator must evaluate all the evidence in the case record to determine the extent to which the opinion is supported by the record.

The fact that the claimant's treating physician, after extensive examinations and treatment, has formed such opinion as to the claimant's ability to perform sustained work activity was precluded strongly suggests a significantly limited residual functional capacity. Further, considering the claimant's diagnoses and multitude of prescribed medications tried, the

undersigned finds that treating physician's opinion is well support and is not inconsistent with the other substantial evidence in the case record; thus, it is afforded controlling weight (20 CFR 404.1527(d)(2) and SSR 96-2p).

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairment(s) could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical opinions are given little weight because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Furthermore, the State agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments. The Administrative Law Judge affords greater weight to the opinion of the examining (nontreating) source. This opinion is well supported by medically acceptable clinical and laboratory findings, and is consistent with the record when viewed in its entirety. The State agency consultants did not consider all of the claimant's impairments contained in the medical evidence of the record. The State agency consultants failed to consider the combined effect of all of the claimant's impairments as required by the regulations. The State agency did not adequately consider the entire record, including the statements of collateral sources. The State agency did not adequately consider the entire record, including the subjective complaints and other allegations of the claimant.

5. The claimant is unable to perform any past relevant work (20 CFR 404.1565 and 416.965).

The demands of the claimant's past relevant work exceed the residual functional capacity.

6. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563 and 416.963).

7. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564 and 416.964).

8. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568 and 416.968).

9. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c), 404.1566, 416.960(c), and 416.966).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decision-making unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decision-making (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.28. However, the additional limitations so narrow the range of work the claimant might otherwise perform that a finding of "disabled" is appropriate under the framework of this rule.

10. The claimant has been under a disability, as defined in the Social Security Act, from August 22, 2006 through the date of this decision (20 CFR 404.1520(g) and 416.920(g)).

DECISION

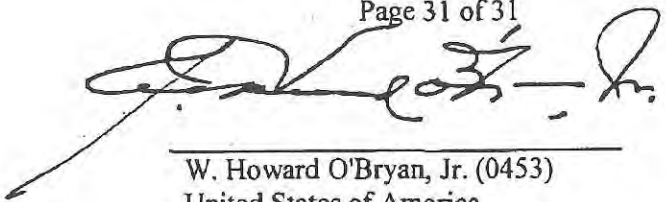
Based on the application for a period of disability and disability insurance benefits filed on June 12, 2007, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act beginning on August 22, 2006.

Based on the application for supplemental security income filed on June 12, 2007, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act beginning on August 22, 2006.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 12 months.

Workers' Compensation offset may be applicable.



W. Howard O'Bryan, Jr. (0453)
United States of America
¹⁰Administrative Law Judge
Federal Administrative Judiciary

Date: **DEC 04 2007**

¹⁰

W. Howard O'Bryan, Jr., (0453), United States Administrative Law Judge, Social Security Administration, Office of Adjudication and Review. Who may preside: 5 USC 556(b); Powers of the presiding officer: 5 USC 556(c); Special role of the Administrative Law Judge in Social Security: Heckler v. Campbell, 461 U.S. 458, 471, 103 S.Ct. 1952, 1959, 1 S.S.R.S. 3, 10, CCH ¶ 14,585 (1983); Dixon v. Heckler, 811 F.2d 506, 510, 16 S.S.R.S. 279, 283 (10th Cir. 1987); James v. Bowen, 793 F.2d 702, 704-705, 14 S.S.R.S. 87, 89-90, CCH ¶ 17,071 (5th Cir. 1986); Canon v. Harris, 651 F.2d 513 (7th Cir. 1981); Coulter v. Weinberger, 527 F.2d 224 (3rd Cir. 1975) (Administrative Law Judge must develop full record where claimant not represented by counsel); But see, Kane v. Heckler, 731 F.2d 1216, 4 S.S.R.S. 340, CCH ¶ 15,324 (5th Cir. 1984); Dozier v. Heckler, 754 F.2d 274 (8th Cir. 1985); Jordan v. Heckler, 835 F.2d 1314, 20 S.S.R.S. 158, CCH ¶ 17,808 (10th Cir. 1987), (Administrative Law Judge must develop full record even if claimant represented by counsel); Social Security Ruling 71-23; Social Security Regulations 20 CFR §§ 404.944 and 416.1444, see also, 20 CFR 404.950, 404.951, 416.1450 and 416.1451; Social Security Act, §§ 305(b) and 1631(c)(1).

VIRGINIA DEPARTMENT OF REHABILITATIVE SERVICES

TELEDICTATION

MEDICAL CONSULTANT REPORT

R _____

_____CURRENT DATE: 10/29/2008

DATE EXAMINED: 10/24/2008

DATE DICTATED: 10/28/2008

TYPE OF CLAIM:

AUTH #:

REGION: 4

CHIEF SYMPTOMS:

Neck pain, low back pain and shortness of breath.

HISTORY OF PRESENT ILLNESS:

The claimant is a 53-year-old female with a past medical history of COPD, history of motor vehicle accident five years ago, low back pain, neck pain and pain in the knees came for evaluation of Disability Determination Services.

As per the claimant, her main symptoms are neck pain which has been present for the last several years, getting worse and worse. The claimant rates her pain as 8/10, occasionally radiates to the hands. Any kind of movement from side to side exacerbates the pain. She sees [redacted] as an outpatient, who is a family care physician. She has never had x-rays or an MRI scan or myelogram for the neck pain, although she had been sent to physical therapy once in the past which did not help her neck pain. The claimant was never referred to a specialist in the past for her neck pain.

Also, the claimant complains of low back pain and hip pain at times. The pain becomes worse on bending, stooping, crouching, crawling and lifting weights more than 20 pounds. Also, she never had an x-ray or MRI scan for the back to suggest

EXHIBIT NO. 6F
PAGE: 4 OF 8

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Page 2

RE:
SSN:

the pathology of the back pain. She has never been sent to a specialist for her back pain.

The claimant describes having a motor vehicle accident in the past, five years ago, with fracture of the left hip. She does not use a cane, walker or crutches for ambulation.

She also has shortness of breath, mostly on exertion. She has never had an MRI scan or x-ray in the past.

The claimant also complains of pain in her right hip joint and pain all over. She has never worked in the past.

REVIEW OF SYSTEMS:

No fevers, chills or rigors. No headaches. No change in vision. Negative for tinnitus or hearing loss. Negative for sore throat. No odynophagia. No neck mass. No chest pain. Positive for shortness of breath on exertion. No palpitations. Negative for pain in the abdomen. No nausea, vomiting, diarrhea or constipation. Negative for burning or pain in the urine. No hematuria. No dizziness. No loss of consciousness. No seizures. Positive for neck pain. Positive for low back pain. No depression or anxiety. Positive for pain in the knees.

PAST MEDICAL SURGICAL HISTORY:

1. COPD.
2. Gallbladder surgery in the past.
3. Motor vehicle accident five years ago with left hip fracture, status post repair.
4. Low back pain.
5. Neck pain.
6. Pain in the knees.
7. Hysterectomy in the past.

ALLERGIES:

No known drug allergies.

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Page 3

RE: [REDACTED]
SSN: [REDACTED]

SOCIAL HISTORY:

The claimant smokes one pack a day. No alcohol. No illicit or intravenous drug abuse.

MEDICATIONS:

1. Lisinopril
2. Hydrochlorothiazide 20/12.5 mg, one table q. daily.
3. Advair Disk 250/50, one puff b.i.d.
4. Rosuvastatin 20 mg q.d.
5. Spiriva HandiHaler, one puff in the morning.
6. Hydrocodone 5/500, q.4h., as needed.

PHYSICAL EXAMINATION:

The claimant being examined was not in any acute distress, lying conscious and comfortable.

VITAL SIGNS: Respirations are 80. Temperature 98.5. Pulse 70. Blood pressure is 120/70. Height 5 feet 4 inches. Weight 134 pounds. Vision 20/20

GENERAL: The claimant was pleasant and cooperative, not in any acute distress.

GROSS AND FINE MANIPULATIONS: The claimant can climb on the examination table with no difficulty. Grasp and shake hand strength was normal. The claimant can pick up a coin from a flat surface with no difficulty.

VISION AND HEARING: Vision was 20/20 bilaterally. A formal hearing test was not done but seems grossly intact.

EARS AND EYES: PERRLA. EOMI.

NECK: No lymphadenopathy. No jugular venous pulse. No thyromegaly.

HEART: Rate is regular. No murmur. No S3. No S4.

LUNGS: Clear to auscultation but air entry is decreased. Expiratory phase was prolonged. No rhonchi. No wheezing.

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Page 4



ABDOMEN: Soft. Nontender. No organomegaly. Bowel sounds are present.

SPINE: Mobility and curvature normal. No kyphosis or scoliosis.

EXTREMITIES: No cyanosis, clubbing or edema. Peripheral pulses felt.

NEUROLOGIC: Alert and oriented. Cranial nerves II-XII are intact.

MOTOR EXAMINATION: Power was 5/5.

SENSORY EXAMINATION: Intact.

CEREBELLAR: No cerebellar signs.

MENTAL STATUS: The claimant's appearance, behavior and speech were normal. Thought process and content were normal. Concentration and attention were normal. Judgment and insight were normal. Attitude and degree of cooperation was normal. Fund of information seems adequate.

DIAGNOSES:

1. Neck pain.
2. Low back pain.
3. Chronic obstructive pulmonary disease (COPD).
4. Motor vehicle accident five years ago with left hip fracture, status post repair.
5. Gallbladder surgery in the past.
6. Pain in the knees.
7. Hysterectomy.

PROGNOSIS:

1. The claimant's main symptoms are pain in the neck and low back pain.
2. Her range of motion on physical examination was normal, although the claimant has mild neck tenderness.
3. On examination, the claimant can do normal flexion/extension of the lumbosacral spine and her gross and fine manipulations were normal.
4. The claimant does not use a cane, walker or crutches for ambulation, although she had a history of hip fracture, but at this point in time her pain is in the right hip which was not involved in the car accident.

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- 5. It is possible that the claimant has degenerative arthritis, as per her age, but she does not demonstrate any significant abnormality to restrict her activity.

FUNCTIONAL INFORMATION:

The claimant was cooperative and gave full effort during the examination. The number of hours the claimant could be expected to sit, stand and walk will be 6-7 hours with normal breaks. No limitations in bending, stooping, crouching, or crawling. No limitations in reaching, handing, fingering or grasping. No relevant visual, communicative, workplace or environmental limitations.

MEDICAL SOURCE STATEMENT:

With no limitations.

CREDIBILITY:

Credibility of the report is moderate.

A handwritten signature in black ink, consisting of a series of sharp, vertical strokes followed by a horizontal line.

This transcription was made from a recording of the voice of _____ by Superior/lt on 10/29/2008.



DuPlex
Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Disapproved Claim

Date: October 31, 2008

[REDACTED]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

We have enclosed information about the disability rules.

About The Decision

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

How We Made The Decision

All relevant reports were requested and the following evidence was used to decide your claim.

[REDACTED] report received 08/20/2008
[REDACTED] LLC report received 09/24/2008
[REDACTED] report received 08/27/2008
[REDACTED] L RESPIRATORY report received 10/28/2008
[REDACTED] report received 10/29/2008
information submitted by you

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You said that you are unable to work because of breathing problems, back problems, limited education, migraine headaches, vision problems, hypertension.

The evidence shows that you have pain in your back, but you are still able to sit, stand, walk and move about within an adequate range without assistance. You have breathing problems, but a recent breathing study has shown that you retain a sufficient ability to breathe. There are many jobs in the economy that do not require much education. Migraines are very bothersome, but generally respond well to treatment and medication. There is no evidence that you have significant difficulty with vision. Your hypertension has not caused you any severe complications.

Although you have not worked in the past, you should be able to do work that does not require heavy lifting or expose you to dust or fumes.

The last day of your specified 7-year period is 01/2015.

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

If You Disagree With The Decision

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to complete a form SSA-561-U2, called "Request for Reconsideration". You may contact one of our offices or call 1-800-772-1213 to request this form. Or you may complete this form online at <http://www.socialsecurity.gov/disability/appeal>. Contact one of our offices if you want help.
- In addition, you should complete a "Disability Report - Appeal" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online after you complete the online Request for Reconsideration.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the appeal.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

If You Want Help With Your Appeal

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee.

Other Benefits

Based on the application you filed, you are not entitled to any other benefits, besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again.

If You Have Any Questions

If you have any questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at the number shown below. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SSA - BLUEFIELD
3014 E CUMBERLAND RD
BLUEFIELD, WV 24701

304-327-7671

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.

Laurie Watkins
Regional Commissioner

Enclosures:
SSA Pub. No. 05-10058
Disability Rules Factsheet

F [REDACTED]
Licensed Clinical Psychologist

[REDACTED] 50
[REDACTED]
[REDACTED]

Report of Psychological Evaluation

CONFIDENTIAL: FOR PROFESSIONAL USE ONLY

Name: [REDACTED] SS# [REDACTED]
Date of Birth: [REDACTED] Age: 55
Date of Evaluation: 9-27-10 Length of evaluation: 3 hours

Reason for Referral: [REDACTED] was referred by her attorney, L. [REDACTED] for a psychological evaluation in connection with her claim for disability benefits. Records provided for review include Lab Report from [REDACTED] Hospital, 9-17-09; Discharge Summary, [REDACTED] Hospital, 5-8-09; Consultation report, J. [REDACTED], 5-7-09; school records, [REDACTED].

Identifying Information: [REDACTED] is a 55 year-old white woman. She is driven to the evaluation by her pastor and she asks him to be present through the interview and he agrees. They drove to the area yesterday and stayed last night with his sister. She is not able to state the route they used and says they had a little trouble finding this location. Asked if she understands why she is here, [REDACTED] says that her attorney wanted her to come. She completes intake forms without assistance, bending low over the forms to write. She says, "I can't read much." Limits of confidentiality are discussed and she is told that the appointment today is for evaluation only and that it is not intended as treatment. She is also told that the purpose is to determine the effects of any mental impairment on her his ability to sustain gainful employment, and that the results could be favorable or unfavorable.

Medical History: [REDACTED] says she has a history of breathing problems, high blood pressure and back pain for 7 or 8 years because of a bad disc. She broke her hip in a motor vehicle accident 6 or 7 years ago and says she also crushed her pelvis and broke ribs. She was hospitalized overnight about 2 weeks ago because of chest pain, and says this has happened before. She has had surgery for her gall bladder and also had a hysterectomy. Medical records state that she also has a history of osteoporosis, rheumatic fever and COPD. She had a work-up in May of 2009 because of severe headaches on the right side. Her SED rate was elevated and doctors tried to rule out arteritis, inflammation of arteries in the brain or head. She seems not to know what the final diagnosis was, and it may be that studies have not yet been conducted.

[REDACTED], Psychological Evaluation

She brings the following list of medications from [REDACTED] Hospital Discharge/Transfer Instructions, 9-13-10: Advair inhaler 250/50 mg 1 puff x2, Metoprolol 50 mg, Prilosec 20 mg, aspirin 81 mg, Plavix 75 mg, Lortab 7.5 mg every 4 hrs, Ibuprofen 800 mg every 8 hrs, Lisinopril/HCTZ 20/12.5 mg, Paxil 10 mg, Prednisone 60 mg, Spiriva 18 mcq. She says she sometimes forgets to take her medication. Asked about side effects, she says, "I keep a headache all the time," and she also has a dry mouth. She says she lost her Medicaid card in July and when her current supply of medicine runs out, she will not be able to get more.

Psychiatric History [REDACTED] says she has "always been a worrier" but her nerves got worse in 2002 or 03 when her husband became ill. She saw a counselor, [REDACTED] one time in Vansant and says she was not sure the counselor intended her to return so she did not make another appointment. She was also not sure that it would help. She has never been psychiatrically hospitalized or made a suicide attempt. She thinks she began using medication for her nerves about 2 years ago. Family psychiatric history includes "Mommy, she takes medicine for depression."

Asked what her usual mood is, she says, "I'd like to say a good one, pretty fair." Asked if she ever feels depressed, she says yes and rates her level of depression today as 4 on a 10-point scale. She has not had crying spells for a while and says her appetite is variable. She has lost weight and does not know how much but says she can tell in her clothes. She has trouble sleeping and awakens often because of pain and also because of her thoughts. She says she never wakes up without a headache. She has lost interest in things she used to enjoy like working in her flowers and mowing the lawn. She says she stopped doing those things 5 or 6 years ago. She denies feelings of guilt and suicidal ideation ("as of right now, I don't think I would never"). She does not give any history of manic or hypomanic episodes.

[REDACTED] says she feels anxious when she must travel or meet new people. She does not like to be in crowds and says, "I don't visit Wal-Mart." She rates her anxiety today as "5, maybe 7" and says that this evaluation has made her more nervous. She worries excessively and reports muscle aches and tension, dry mouth, headaches and abdominal distress. She is irritable and sometimes gets restless. Concentration is reported to be poor and she says she cannot focus and loses her train of thought. She says she cannot follow a 30-minute TV program. She also reports panic attacks in which she is short of breath, sweats, feels like she is choking and has pounding heart. She cannot say how often they occur but the last attack was a couple of weeks ago. They usually last 5 or 10 minutes. She has gone to the hospital and says she was told that her symptoms were, in fact, due to a problem with her heart. Asked about phobias, she reports the common fears of snakes and heights. She describes compulsive counting of ceiling tiles and says she checks the door locks, more often now that she lives alone. She does not hoard but notes that "anything people don't want, they give it to me." She uses hand sanitizer but does not describe excessive concern about germs and contamination and does not report an excessive need for order. Her pastor later says that he has known [REDACTED] all her life and baptized her 12 years ago. He has noticed that she has gotten more nervous ("quite a bit"). He gives her a ride to church and also took her husband when he was living. He

██████████ Psychological Evaluation

says that she is now very anxious in the car and worries if he gets too close to the edge of the road. He says she is also nervous at the church.

Substance Use: ██████████ denies ever using alcohol, marijuana, or other recreational substances. She says she has never abused pain pills or other prescription medication. She smokes ½ pack a day and has 5 or 6 cups of coffee, no tea and no soda. She is informed that her caffeine intake may be exacerbating her anxiety and is urged to consider cutting back.

Education: ██████████ says she finished the 7th grade at ██████████. She believes she was retained in the 2nd grade and maybe the 4th. School records appear to indicate retention in the 1st and 4th, with social promotion to the 6th. Standardized test scores (Lorge-Thorndike) from 4th grade report Total IQ 53. She was not in special education, home schooled, suspended or expelled. She believes she had developmental delays involving both speech and motor development. Grades were poor and she says that school was hard for her. She was not involved in extracurricular activities but got along fairly well with peers and teachers. She has never attempted to obtain a GED and has not had other training or education.

Work History: ██████████ has never worked for pay or done volunteer work, babysitting or neighborhood jobs.

Psychosocial History: ██████████ was born and raised in ██████████ Virginia. Her mother, who is still living, was a homemaker. Her father worked in the mines and cut logs. He died of cancer 7 years ago. ██████████ was the 5th of 10 children and says she is close to some but not others. She was married at age 18 and her husband worked a strip mine job. She says he died 5 years ago of Alzheimer's and congestive heart failure. They had 2 daughters, now 31 and 36, and they adopted another girl who recently turned 18. When she moved out, ██████████ lost her food stamps. Asked why she has not re-applied, she says she needs to but she appears to be overwhelmed by how to do it. She currently lives alone in a trailer she owns and she has cat. At the end of the evaluation while she is out of the room, her pastor says, "She wouldn't tell you this but," and then goes on to say that her home burned down for the 3rd time a few years ago, after being struck by lightning. He says her financial situation is dire and the church helps her as much as possible, and paid for her husband's funeral.

Legal History: She denies ever being in jail, arrested or charged with any offense.

Abuse History: She denies any history of mental, physical, sexual or emotional abuse. (Some of these questions are asked after the pastor has gone, in the event that she might be uncomfortable with some history, but she did not offer any additional information at that time.)

Military History: She has never served in the military.

Daily Activities: ██████████ goes to bed between 10:30 and 11 and gets up 3 or 4 times in the night. She wakes up around 5 or 5:30 and does not nap during the day. She bathes

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every other day and says it is hard for her to get in and out of the tub but she cares for grooming and hygiene without assistance. Her daughters help with household chores and her son-in-law and daughter take care of the lawn. She cooks "every now and then," and does some dishes, laundry and sweeping. She says she can make minor household repairs like changing a light bulb. She uses a telephone and says she has trouble with the directory because of poor vision. She says she has cataracts in both eyes. She has never used public transportation like a bus but thinks she could. She obtained a driver's license after taking the test twice and says she does little driving now. She only goes on short trips and says she cannot find her way home. She leaves her home once a week to go to church and sometimes picks up a few things at the store but her daughters do some shopping for her. She does not read books, newspapers or magazines and says that reading gives her a bad headache. She does not garden or do other outdoors activities and does not use a computer. She thinks she can write a check and says she would need help balancing a checkbook. She pays bills in person using cash. She does not watch TV and listens to a little music in the vehicle.

Social Functioning: ██████████ says she gets along ok with most people but she is shy and avoidant. Her pastor says that she does not like to ask for help and she appears to have limited assertive skills. She says she gets into arguments with her children but does not have a history of interpersonal conflict. She has a few friends from church and only sees them on Sunday. She rarely visits friends or family. She never did participate in social activities. She says she used to go to church 3 times a week and adds that her faith has helped her through her difficult times.

Tests Administered:

Clinical interview
Review of Records
Mental Status Examination
Wechsler Adult Intelligence Scale - 4th Edition (WAIS-IV)

Behavioral Observations and Validity of Findings: Rapport is established and the importance of making a good effort is discussed with ██████████. She is encouraged to give accurate information and is told that apparent exaggeration or inaccurate reporting of symptoms will be noted in the report of evaluation. She indicates that she understands and appears to make a good effort. She approaches testing in a thoughtful, deliberate manner. When questions become more difficult, she says, "I'll try." These results are thought to be an accurate and valid assessment of her functioning.

Test Results:

WAIS-IV: The WAIS-IV provides composite scores with a mean of 100 and a standard deviation of 15. VCI replaces VIQ on the WAIS-III and PRI replaces PIQ on the WAIS-III. CI refers to 95% Confidence Interval. She produces the following:

Psychological Evaluation

<u>Scale</u>	<u>Composite Score</u>	<u>(CI)</u>	<u>% Rank</u>	<u>Descriptor</u>	
Verbal Comprehension	VCI	66	62-73	1	Extremely Low
Perceptual Reasoning	PRI	60	56-68	0.4	Extremely Low
Working Memory	WMI	71	66-80	3	Borderline
Processing Speed	PSI	68	63-80	2	Extremely Low
Full Scale	FSIQ	60	57-65	0.4	Extremely Low

These scores indicate that relative to other individuals in her age group, [redacted] measured level of intellectual functioning falls within the Mild Mental Retardation range. These findings are generally consistent with her reported education and work history. Pair wise Discrepancy Comparison finds WMI is significantly higher than PRI.

Scaled scores have a mean of 10 which is considered average for someone in this age group, with a standard deviation of 3. She obtains the following subtest scaled scores:

<i>Verbal Comprehension</i>		<i>Perceptual Reasoning</i>	
<u>Subtest</u>	<u>Scaled score</u>	<u>Subtest</u>	<u>Scaled score</u>
Similarities	3	Block Design	3
Vocabulary	5	Matrix Reasoning	2
Information	4	Visual Puzzles	5

<i>Working Memory</i>		<i>Processing Speed</i>	
<u>Subtest</u>	<u>Scaled score</u>	<u>Subtest</u>	<u>Scaled score</u>
Digit Span	7	Symbol Search	4
Arithmetic	3	Coding	4

Relative to the overall mean of all subtests, she displays a strength on Digit Span. No relative weaknesses are found. It is noted that she has particular difficulty with Block Design and consistently reverses the designs. She has problems comprehending the instructions and must be reminded to use all of the blocks. When she realizes that she has one block out of order, she leaves it and attempts to change the other 3. These behaviors might suggest a learning disability in a younger person and in her case, may reflect some organicity.

WRAT-4: The WRAT-4 is a norm-referenced test of academic achievement that is used to assess basic skills of word reading, sentence comprehension, spelling and math computation. For each subtest, standard scores are reported with a mean of 100 and a

[REDACTED] Psychological Evaluation

standard deviation of 15. Confidence intervals (CI), percentile ranks, and grade equivalent scores are also reported. She produces:

	<u>Standard Score</u>	<u>95% CI</u>	<u>Percentile</u>	<u>Grade Score</u>
Word Reading	69	62-79	2	4.1
Sentence Comprehension	71	64-80	3	4.7
Spelling	74	66-85	4	4.4
Math Computation	71	62-84	3	3.2
Reading Composite	68	63-75	2	--

These scores indicate that her ability to recognize and pronounce words, spell them, and understand their meaning in the context of a sentence is at 4th grade level. Ability to solve math problems is a little lower.

Mental Status Exam:

Appearance: [REDACTED] is neatly dressed in tan cropped pants, orange polo shirt and sandals. Her clothing is a little lightweight for the cooler weather today. She has long white hair and is tanned and wears toenail polish. Fingernails are long and clean. She wears glasses and make-up. She gives her height as 5'4" and her weight as 117 pounds. She looks older than her stated age.

Relation to Examiner: She is friendly and cooperative, and makes good eye contact.

Motor/Physical: She is right-hand dominant and wears glasses. She does not use any device to assist hearing, movement or balance. She is restless and fidgety and takes one short break. She sits on the edge of her seat with her arms folded. She chews and picks at her nails and taps her foot.


Speech: Rate and volume of speech are within normal limits. She speaks clearly and coherently, using a regional accent. No unusual latencies or word finding problems are observed.

Affect and Mood: Range of affect is restricted and mood is primarily anxious. She becomes defensive and sounds a little angry and irritable after having problems with mental status questions.

Orientation: She is oriented to person, place and date.

Insight: She displays accurate insight into the nature of her problems. She does not externalize or blame others.

Judgment: She is able to make reasonable decisions and to manage her daily activities; though, she notes that "living alone, seems like it's all hard." She is helped by her daughters with important decisions, and says they advise on matters like caring for the

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trailer and maintaining a vehicle. She sounds overwhelmed by these tasks and says, "I need somebody to decide."

Memory: She is able to recall 6 digits forward and one trial of 4 digits backward, which is a good performance relative to her overall intellectual functioning. She can recall what she had for supper last night ("green beans, chicken, potatoes") and cannot give any important story recently in the news. She recalls 4/5 words immediately and is aware that she has omitted one. After a 10-minute delay, she recalls 2/5 and again knows that she omitted 3. She can name the current president but not the governor ("can't think of his name"). Asked to name the last 3 presidents, she says, "Clinton, Bush. The last three? Besides Obama, I can't remember." Ability to report personal history is fair to poor, suggesting some impairment of long-term memory.

Attention and Concentration: Attention is variable and she is confused at times. She has much difficulty with serial 7's and is given a hint to help her get started but still does not comprehend the task. She says, "Count by 7? From 97? 92, 87." She is then asked to do serial 3's and again becomes confused. She slowly begins at 45 and says, "no, 44, 38, 36," and stops to ask that the instructions be repeated. She also has trouble giving three months of the year in reverse order ("oh, Lord, I don't know if I can do that or not"). She begins, "December, February, March," and is stopped and told to begin with "December, November," to which she replies "January." She correctly spells *world* forward but says she cannot do it backward. (She appears to be getting very frustrated and irritable.)

Thought Content and Process: Stream of thought is organized and logical without evidence of loose associations, delusions, flight of ideas or other indicators of psychotic process. Asked if she thinks people talk about her, she says, "I'd say they probably do. Because I'm not as educated as most of them are." Asked if they plot against her, she says, "I'd say some of 'em does." She does not believe she is being followed ("not that I know of"). She denies suicidal or homicidal ideation.

Perception: She denies auditory or visual hallucinations or other unusual perceptual experiences.

Social Judgment: If she lost something that belonged to someone else, she says, "I would hunt for it." If she saw smoke and fire in a crowded theater, she says, "I would run, I guess." She asks that the question about what to do with a found letter be repeated, then says, "I guess I would probably pick it up." She says a lie is "something you intend to do" and a mistake "is just..."

Fund of Knowledge: She says 3 cities or towns in the USA are Richlands, Grundy, and Abingdon. She knows the number of weeks in a year and incorrectly solves $\$1.00 - .17 = .82$. She cannot identify Amelia Earhart and says, "I don't know. Who was she?"

Abstract Reasoning: She interprets *No use crying over spilled milk* by saying, "For instance, say if you break something, there's no need to cry about it?" She says *People who live in glass houses shouldn't throw stones* means "if you're doing something

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somebody else is doing, you shouldn't say anything about what they're doing." She says a dog and cat are alike because "both are cold-blooded animals," and different because "a dog barks, a cat meows."

Diagnostic Impressions:

- Axis I: 300.02 Generalized Anxiety Disorder
Panic attacks
- Axis II: 317 Mild Mental Retardation
Personality traits (dependent, avoidant)
- Axis III: Deferred
- Axis IV: Living alone, poor social support, severe financial limitations
- Axis V: GAF - 48 (Note: The Global Assessment of Functioning is best used to monitor change over time from the perspective of a single rater. Comparing different ratings made by different observers at different times may lead to inaccurate conclusions.)

Summary and Conclusions: ██████████ is a 55 year-old woman with a 7th grade education and no work history. She has a history of medical problems that include back pain and chronic headaches. She has always had some anxiety and it intensified about 8 years ago when her husband became ill.

Credibility: Self-report, available records, third party report by her pastor, interview presentation and psychological testing are consistent, supporting her credibility.

Diagnostic rationale: ██████████ produces IQ scores of VCI 66, PRI 60, WMI 71, PSI 68 and FSIQ 60, which fall within the Mild Mental Retardation range. Standardized testing from 4th grade reports IQ of 53. Her adaptive functioning is consistent with Mild Mental Retardation in that she has limited communication skills, relies on others for most of her transportation needs, and depends on her daughters for assistance with routine maintenance of her home and vehicles. It seems likely that she has overstated some activities of daily living. She lost food stamps when her daughter moved out and she has not applied because she does not know how. Her pastor notes that she does not like to admit to problems or ask for help. She also has a history of worrying excessively and this got worse when her husband's medical problems became more serious around 2002. She reports greater nervousness around other people and says she is irritable and cannot focus her attention. She has headaches, muscle aches, dry mouth and abdominal distress when anxious. This is consistent with Generalized Anxiety Disorder. She also reports panic attacks in which she feels like she is choking, has chest pain, her heart pounds and she breaks out in a sweat. Panic Disorder is not given because she is unable to say how frequently these attacks occur, but they are often enough to add to her distress. She also has personality traits that impact her functioning. She is socially avoidant and has relied on her family to assist with many routine activities and decision-making. Now, though, her husband is gone and her youngest daughter has left home so she is alone for the first time and is having even more difficulty functioning.

[REDACTED], Psychological Evaluation

Prognosis: [REDACTED] intellectual limitations are lifelong and not expected to change. Her anxiety has also been present since childhood but only at the current level since around 2002 or 2003. More aggressive treatment may be helpful in reducing some of her symptoms but significant change is not likely. Her anxiety is expected to continue, especially if she lives alone.

Capability to manage funds: [REDACTED] may be able to manage funds that might be awarded to her if she has some initial assistance (perhaps from her daughters) in setting up an account. However, she has no experience with this and has paid bills in cash so it is likely that she would have trouble managing finances independently.

Functional information: [REDACTED] is able to understand and follow simple instructions but requires repetition even for these. She is rather self-conscious about errors and becomes defensive, irritable and frustrated when she does not understand. She is expected to have considerable difficulty learning new skills and will require demonstration and supervision for many tasks until she catches on. Concentration is poor and once it is disrupted, she has great difficulty regaining focus. She is very nervous around people and cannot work with the public. She is also quite nervous in a vehicle, whether she is the driver or passenger. She has trouble making decisions on her own and does not initiate activities.

Treatment recommendations: [REDACTED] would benefit from learning strategies for managing anxiety. She may also need assistance with some living skills, especially those that involve finances and ways to utilize community resources. However, her previous attempt at counseling was only mildly successful and she may not have understood the intentions of her counselor. She will need specific guidance about how counseling works, what she is expected to do, how to set goals, and so on, if she is to benefit.

[REDACTED]

Licensed Clinical Psychologist

[REDACTED]
Office Note

[REDACTED]
DATE: 09-25-2009

CHIEF COMPLAINT: Lab work results and flu shot.

HISTORY OF PRESENT ILLNESS: This is a 54 year old white female who comes in today initially for a flu shot and then wanting to talk to me because of her blood work. She stated that she wanted to know her lab results and my nurse suggested that she may want to talk to me about it directly because of some of results went up instead of down. This is primarily a discussion visit.

I did review patient's labs. I did explain to her that after one month of being on the Crestor and just under that, that she would _____ maintain good ____ changes as far as increases. Her cholesterol did go up a couple points, in her bad cholesterol. But her triglycerides and her good cholesterol went down. I asked patient to give it another 3 months before making determination. Her liver functions were normal and will continue to check that in the next 3 months as well.

We also reviewed side effects of flu shot and how she can potentially experience influenza like symptoms despite getting the shot. Also described she needs to get her influenza vaccination as well as pneumonia shot. All the patient's questions were answered to her satisfaction. Patient verbalized understanding all instructions and agrees with current plan.

[REDACTED SIGNATURE]

MLG:bjp

D: 09-28-2009 T: 10-13-2009

[REDACTED]

Office Note

[REDACTED]

DATE: 11-10-2008

HISTORY OF PRESENT ILLNESS: Patient is a 53 year old female who comes in for a couple of complaints today. First being allergic rhinitis type symptoms with runny nose, nasal congestion. Patient states that she has used a nasal steroid in the past and had good results with this. Patient denies any fevers or chills and states she has just been getting persistent post nasal drainage and cough.

Patient also states she was being evaluated for her social security and as a result she was sent to have pulmonary function test done and was told that she had abnormal pulmonary function test and that her primary care physician should get this report, but I have not yet seen this report. She was told at that evaluation that she should consider getting a nebulizer machine for her COPD.

Finally patient states that her family has been waking her up, sometimes telling her that she is making a lot of noise when she sleeps. Question whether this is actually apnea with some sonorous breathing because of her chronic lung disease.

Another thing patient complained about was with her increasing allergic rhinitis type symptoms and coughing states she now has some right rib pain.

REVIEW OF SYSTEMS: As stated above. All other systems negative.

PHYSICAL EXAMINATION: Weight 140. Height 5'4". Blood pressure 130/90. Heart rate is 95. Temp 97. Respiratory rate is 18. O2 sat is 98%. **GENERAL:** Patient alert and oriented, no acute distress. **HEENT:** Pupils equal, round and reactive to light. TM's intact. Nasal mucosa is moist. Lips, teeth and gums normal. **NECK:** Supple. No JVD. No thyromegaly. No bruits appreciated. **HEART:** Regular rate and rhythm with no murmur, rub or gallop. **LUNGS:** Decreased significantly bilaterally. **ABDOMEN:** Soft, non tender, non distended. **EXTREMITIES:** No edema, clubbing, or cyanosis. **MUSCULOSKELETAL:** Patient has some increased paraspinal muscle spasm noted mid thoracic area with pain to palpation around her right 10th rib. **OSTEOPATHIC:** Reveals a posteriorly subluxed right 10th rib and T6 rotated right.

ASSESSMENT AND PLAN:

1. Allergic rhinitis. Patient was instructed to use saline sinus rinse on a daily basis to help alleviate some of her allergic rhinitis. She was also given prescription for Flonase to use 2 puffs each nostril daily. If her symptoms do not improve, patient was instructed to follow up with our office again in the near future.

[REDACTED]
Office Note

[REDACTED]
PAGE 2

2. COPD. Patient was told recently that she had significant COPD on evaluation for social security. Will obtain that record that was apparently ordered by social security board, but I am not sure exactly how this was done. But will get this report and evaluate it. In the meantime, will give patient a nebulizer machine and start her on some Albuterol and Atrovent to take prn in this machine.
3. Questionable obstructive sleep apnea. Given patient's description of what her family members were telling her she was doing with sonorous breathing and making loud gasping noises, I suspect she does have a component of apnea. Therefore will do an "Are You Sleeping?" evaluation at her home through Lovejoy.
4. Somatic dysfunction of T spine and ribs: Patient was treated with soft tissue technique and high velocity low amplitude treatment and had resolution of her symptoms prior to leaving the office today.

[REDACTED]
CEG:bjp

D: 11-10-2008 T: 11-12-2008

DISABILITY REPORT - ADULT - Form SSA-3368

(3368) Section 1 - Information About the Disabled Person

- A. Name [REDACTED]
- B. Social Security Number [REDACTED]
- C. Daytime Telephone Number (If you do not have a number where we can reach you, give us a daytime number where we can leave a message.):
[REDACTED]

D. Give the name of a friend or a relative that we can contact (other than your doctors) who knows about your illnesses, injuries, or conditions and can help you with your claim.

Name:	[REDACTED]
Relationship:	[REDACTED]
Address:	[REDACTED]
Daytime Phone:	[REDACTED]

- E. What is your height without shoes? 5' 4"
- F. What is your weight without shoes? 137 lbs.
- G. Do you have a medical assistance card? Yes
If "YES", show the number [REDACTED]
- H. Can you speak and understand English? Yes
If "NO", what is your preferred language?

NOTE: If you cannot speak and understand English, we will provide an interpreter, free of charge.

If you cannot speak and understand English, is there someone we may contact who speaks and understands English and will give you messages?

(If "YES", is this the same person as in "D" above? If it is, show "SAME" below, if not complete below.)

- I. Can you read and understand English? Yes
- J. Can you write more than your name in English? Yes

(3368) Section 2 - Your Illnesses, Injuries, or Conditions and How They Affect You

A. What are the illnesses, injuries, or conditions that limit your ability to work?

Breathing and back problems with limited education, migraine headaches, problems seeing, and high blood pressure.

B. How do your illnesses, injuries, or conditions limit your ability to work?

I cannot breathe real good and have to use inhalers all the time. My back hurts too bad to lift, stand or sit for any length of time. I keep migraine headaches all the time. My blood pressure is not under control so I stay dizzy. I can't see very well either.

C. Do your illnesses, injuries, or conditions cause you pain or other symptoms? **Yes**

D. When did your illnesses, injuries, or conditions first interfere with your ability to work? **2004**

E. When did you become unable to work because of your illnesses, injuries, or conditions?

02/01/2008

F. Have you ever worked? **No**

G. Did you work at any time after the date your illnesses, injuries, or conditions first interfered with your ability to work?

H. If "Yes," did your illnesses, injuries, or conditions cause you to:

work fewer hours?

change your job duties?

make any job-related changes such as your attendance, help needed, or employers?

Explain:

I. Are you working now?

If "NO," when did you stop working?

J. Why did you stop working?

(3368) Section 3 - Information About Your Work

A. List all the jobs that you had in the 15 years before you became unable to work because of your illnesses, injuries, or conditions.

* = Longest Job Held

**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

CLAIM FOR

(Claimant)

Widow's Insurance Benefits (Disability) and
Supplemental Security Income

(Wage Earner)

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated March 9, 2009 (20 CFR 404.929 *et seq.* and 416.1429 *et seq.*). The claimant is alleging disability since February 1, 2008.

On June 16, 2010, the undersigned held a video hearing (20 CFR 404.936(c) and 416.1436(c)). The claimant appeared in Bluefield, WV, and the undersigned presided over the hearing from Roanoke, VA. A _____, an impartial vocational expert, also appeared at the hearing. The claimant is represented by I _____, an attorney. The record was left open to allow time for the undersigned to obtain a consultative psychological evaluation of the claimant.

The report of the claimant's psychological evaluation was received and reviewed by the undersigned (Exhibit 12F).

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d), 202(e), and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

Other issues are whether the claimant is the widow of the deceased worker, has attained the age of 50, is unmarried (unless one of the exceptions in 20 CFR 404.335(e) apply), and has a disability that began before the end of the prescribed period. The prescribed period ends with the month before the month in which the claimant attains age 60, or, if earlier, either 7 years after the worker's death or 7 years after the widow was last entitled to survivor's benefits, whichever is later.

In this case, the claimant's prescribed period began on September 14, 2005, the date the wage earner died. Therefore, the claimant must establish that her disability began on or before September 30, 2012 in order to be entitled to a disabled widow's benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from February 1, 2008, through the date of this decision. The undersigned also finds that disability was established during the prescribed period for entitlement to disabled widow's benefits.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do her past relevant work,

the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant is the unmarried widow of the deceased insured worker and has attained the age of 50. The claimant met the non-disability requirements for disabled widow's benefits set forth in section 202(e) of the Social Security Act.**
- 2. The prescribed period ends on September 30, 2012.**
- 3. The claimant has not engaged in substantial gainful activity since February 1, 2008, the alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).**
- 4. The claimant has the following severe impairments: mental retardation and anxiety (20 CFR 404.1520(c) and 416.920(c)).**

On September 27, 2010, _____, performed a consultative psychological evaluation of the claimant (Exhibit 12F). On this administration of the WAIS-IV, the claimant attained a Full Scale IQ of 60. During standardized testing in the 4th grade, the claimant was assessed with a Total IQ of 53 (Exhibit 12F-3). _____ diagnosed the claimant with anxiety disorder, mild mental retardation, and a global assessment of functioning (GAF) score of 48.

- 5. The severity of the claimant's impairments meets the criteria of section 12.05C of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 416.920(d) and 416.925).**

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and

96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-6p and 06-3p.

The claimant's impairments meet listing 12.05C. The "paragraph C" criteria of this listing are met because the claimant has mental retardation initially manifested before age 22 with a valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The record does not contain an assessment of the claimant's mental limitations from a state agency psychological consultant.

6. The claimant has been under a disability as defined in the Social Security Act since February 1, 2008, the alleged onset date of disability (20 CFR 404.1520(d) and 416.920(d)).

DECISION

Based on the application for disabled widow's benefits protectively filed on June 11, 2008, the claimant has been disabled under sections 202(e) and 223(d) of the Social Security Act since February 1, 2008.

Based on the application for supplemental security income protectively filed on June 11, 2008, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since February 1, 2008.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments and, if the claimant is eligible, the amount and the months for which payment will be made.

/s/ William B. Russell

William B. Russell
Administrative Law Judge

January 28, 2011
Date

(The following is a transcript in the hearing held before William B. Russell, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on June 16, 2010, at Roanoke, Virginia, in the case of [REDACTED], Social Security Number [REDACTED]. The Claimant appeared in person and was represented by I [REDACTED] Attorney. Also present were Dr. [REDACTED], Medical Expert and [REDACTED] Vocational Expert.)

(The hearing commenced at 3:04 p.m. on June 16, 2010.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: You are [REDACTED], is that correct?

CLMT: Yes.

ALJ: [REDACTED] I'm Judge Russell. I'm the Administrative Law Judge assigned to hear your case. I'd like you to know I have no connection to the prior agency that has denied your claim for benefits and I will be issuing you a totally new and independent decision.

[REDACTED] (PHONETIC) is here to assist me. He's a medical doctor.

[REDACTED] (PHONETIC) is a Vocational Expert. I've had a pre-hearing conference with [REDACTED] so we will -- may have an abbreviated hearing.

If anyone asks you a question, if you don't understand the question or don't know the answer, please stop and tell us you don't know or you don't understand. Fair enough?

CLMT: Yes.

ALJ: All right. I [REDACTED] you have one, requested the right to send [REDACTED] out for a -- your own consult, psychological. Is that correct?

ATTY: That's correct, Your Honor. I've discussed it with her. She's agreed to go. I would like permission to send any imposed here.

ALJ: All right. I'll give you 60 days on that. 60 days CE, by

attorney. All right, you have also pointed out that based on your claimants education, lack of a work history and age, that age 60 and age 55, based on Exhibit 7F which limited her to medium work, she would grid and you -- as I understood, your pre-hearing motion or request to me was that you be allowed the psychological, if the psychological did not justify disability before her 55th birthday that you were going to amend to her 55th birthday, where she will automatically grid. Is that correct?

ATTY: That's fully correct, Your Honor.

ALJ: All right, I will grant that too. I do have to take some testimony from the claimant. Did you have any objections to the evidence of record as it stands now?

ATTY: No, Your Honor.

ALJ: I will admit the evidence founds in sections A through F into the record.

(Exhibits A through F, previously identified, were received into evidence and made a part of the record thereof).

ALJ: All right, [REDACTED], I have to get some information from you and I have to take testimony under oath. Do you have any objection to giving me sworn statement?

CLMT: No.

ALJ: Would you raise your right hand along with my experts?

(The Claimant, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q [REDACTED] may I begin by asking you your current address?

A It's [REDACTED]

Q All right, and your home phone number?

A [REDACTED]

Q All right. You're alleging disability from February 1, 2008, is that sound correct?

A I think so.

Q Oh, okay. Had you worked since that day, or have you ever had a job in your life?

A No, I've never had a job.

Q All right. How far did you go in school?

A Seven.

Q All right. Did you ever get a GED?

A No.

Q How tall are you?

A 5'4".

Q Do you know your current weight?

A I think, 115, I believe.

Q What was your weight in 2008? Do you -- give your best guess.

A Probably 130, I'm, I'm not for sure.

Q You've lost a little weight then?

A Yes.

Q Okay. Do you have a driver's license?

A Yes.

Q All right. How well do you read and write?

A Not very well.

Q How did you pass the driving test?

A I took it -- it was like a written test, whenever --

Q Right.

A -- I took it, and I think I just barely did pass it.

Q All right, but you could read over it. Did they read it to you or did you have to read it yourself?

A I bet I had some help with it.

Q Okay, now, _____ I'm going to ask you questions, and if it turns this happened, it's okay. I know, know from past experience now that some of the rural counties in Virginia, when you're trying to get your drivers exams sometimes they come up and kind of tap on the paper and give you hints. Did that happen in your case?

A I think so.

Q Okay, all right.

(The Vocational Expert, _____ having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q _____, any indication of a work history.

A No work history.

Q All right.

ALJ: _____, unless you have something to add, I will wait on _____ (PHONETIC) report and in the alternative to the report she will grid out at age 55 anyway. Otherwise, I would like to ask _____ one, one or two more questions.

REEXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE.

Q _____, you are the widow of _____ (PHONETIC).

Is that correct?

A Yes.

Q Had you remarried?

A No.

Q Okay. That's all I have for you. [REDACTED] thank you for coming in. [REDACTED], will talk to you about what's happening after the hearing. There will be nothing further. The hearing will close at --

HA: 3:10 p.m.

(The hearing closed at 3:10 p.m. on June 16, 2010.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge, William B. Russell.

Phyllis Kopytko
Phyllis L Kopytko, Transcriber
Free State Reporting, Inc.

Caroline Musterman
Caroline Musterman, Proofreader
Free State Reporting, Inc.

DISABILITY REPORT - ADULT - Form SSA-3368

(3368) Section 1 - Information About the Disabled Person

A. Name: [REDACTED]

B. Social Security Number: [REDACTED]

C. Daytime Telephone Number (If you do not have a number where we can reach you, give us a daytime number where we can leave a message.):

[REDACTED] Your number

D. Give the name of a friend or a relative that we can contact (other than your doctors) who knows about your illnesses, injuries, or conditions and can help you with your claim.

Name:	[REDACTED]
Relationship:	[REDACTED]
Address:	[REDACTED]
Daytime Phone:	[REDACTED]

E. What is your height without shoes? 5' 1"

F. What is your weight without shoes? 170 lbs.

G. Do you have a medical assistance card? Yes

If "YES", show the number here: ?

H. Can you speak and understand English? Yes

If "NO", what is your preferred language?

NOTE: If you cannot speak and understand English, we will provide an interpreter, free of charge.

If you cannot speak and understand English, is there someone we may contact who speaks and understands English and will give you messages?

(If "YES", is this the same person as in "D" above? If it is, show "SAME" below, if not complete below.)

I. Can you read and understand English? Yes

J. Can you write more than your name in English? Yes

(3368) Section 2 - Your Illnesses, Injuries, or Conditions and How They Affect You

A. What are the illnesses, injuries, or conditions that limit your ability to work?

diabetes, heart, high blood pressure, cholesterol, depression, degenerative disc disease, left elbow pain, and limited use of left hand

B. How do your illnesses, injuries, or conditions limit your ability to work?

The diabetes is not controlled by the medications. I can't see well out of my right eye and get headaches and dizziness. I have numbness in my feet and they give out from under me. I have difficulty walking, shortness of breath, easily fatigued, sleep a lot, blurred vision, thirstiness, uncontrollable infections, cuts don't heal properly, numbness in fingers and toes. I have been falling and am afraid to go anywhere with out anyone. I am tired all the time and my immune system is very bad now.

C. Do your illnesses, injuries, or conditions cause you pain or other symptoms? **Yes**

D. When did your illnesses, injuries, or conditions first interfere with your ability to work? **11/06/07**

E. When did you become unable to work because of your illnesses, injuries, or conditions?

11/06/2007

F. Have you ever worked? **Yes**

G. Did you work at any time after the date your illnesses, injuries, or conditions first interfered with your ability to work? **No**

H. If "Yes," did your illnesses, injuries, or conditions cause you to:

work fewer hours?

change your job duties?

make any job-related changes such as your attendance, help needed, or employers?

Explain:

I. Are you working now? **No**

If "NO," when did you stop working? **07/07/2007**

J. Why did you stop working?

I got laid off then had a heart attack in November 2007 and health went down hill and could no longer work.

(3368) Section 3 - Information About Your Work

A. List all the jobs that you had in the 15 years before you became unable to work because of your illnesses, injuries, or conditions.

* = Longest Job Held

Longest Job Held	Job Title	Type of Business	Dates Worked (From-To)	Hours Per Day	Days Per Week	Rate of Pay/Per
*	scheduler	bed company	05/1993 - 07/2007	8	5	\$16.00/Hour

B. Which job did you do the longest?

scheduler

C. Describe this job. What did you do all day? (If you need more space, write in the "Remarks" section.):

answer phone calls from distributor, take the info about what product they wanted, office work and pack up one a month and move boxes upstairs

D. In this job, did you:

Use machines, tools, or equipment? **Yes**

Use technical knowledge or skills? **No**

Do any writing, complete reports, or perform duties like this? **Yes**

E. In this job, how many total hours each day did you:

Walk? **1**

Stand? **1**

Sit? **8**

Climb? **0**

Stoop? (Bend down & forward at waist.): **1**

Kneel? (Bend legs to rest on knees.): **0**

Crouch? (Bend legs & back down & forward.): **0**

Crawl? (Move on hands & knees.): **0**

Handle, grab or grasp big objects? **1**

Reach? **2**

Write, type or handle small objects? **8**

F. Lifting and Carrying (Explain what you lifted, how far you carried it, and how often you did this.):
lifted boxes of orders once a month and carried them upstairs in the beginning and in the end others did it for me

G. Heaviest weight lifted: **Less than 10 lbs.**

H. Weight you frequently lifted (By frequently, we mean from 1/3 to 2/3 of the workday.):

Less than 10 lbs.

I. Did you supervise other people in this job? No

How many people did you supervise?

What part of your time was spent supervising people?

Did you hire and fire employees?

J. Were you a lead worker? No

(3368) Section 4 - Information About Your Medical Records

A. Have you been seen by a doctor/hospital/clinic or anyone else for the illnesses, injuries, or conditions that limit your ability to work?

Yes

B. Have you been seen by a doctor/hospital/clinic or anyone else for emotional or mental problems that limit your ability to work?

Yes

C. List other names you have used on your medical records:

Tell us who may have medical records or other information about your illnesses, injuries, or conditions.

D. List each Doctor/HMO/Therapist. Include your next appointment:

Name:	[REDACTED]	Date First Visit:	04/08
Address:	[REDACTED]	Date Last Visit:	06/13/08
Phone:	[REDACTED]	Patient ID #:	[REDACTED]
		Next Appointment:	07/10/08
Reasons for Visits:	primary care		
What treatment was received?	exams, medications		
Name:	[REDACTED]		

Address:	ATTN: MEDICAL RECORDS [REDACTED]	Date First Visit:	06/11/08
		Date Last Visit:	07/02/08
Phone:	[REDACTED]	Patient ID # :	
		Next Appointment:	pending
Reasons for Visits: neurologist			
What treatment was received? tests			

Name:	[REDACTED]		
Address:	ATTN: MEDICAL RECORDS [REDACTED]	Date First Visit:	07/11/08
		Date Last Visit:	07/11/08
Phone:	[REDACTED]	Patient ID # :	
		Next Appointment:	07/21/08
Reasons for Visits: congestive heart failure			
What treatment was received? consultation while in Russell County Medical Center in Lebanon VA			

E. List each Hospital/Clinic. Include your next appointment:

Name:	[REDACTED]		
Address:	ATTN: MEDICAL RECORDS [REDACTED]		
Phone:	[REDACTED]		
Inpatient Date In 1:	06/11/08	Inpatient Date Out 1:	06/12/08
Inpatient Date In 2:	06/24/08	Inpatient Date Out 2:	06/25/08
Inpatient Date In 3:		Inpatient Date Out 3:	
Outpatient Date First Visit:		Outpatient Date Last Visit:	
Emergency Room Dates of Visits:			
Next Appointment:	none		
Your Hospital/Clinic Number:			
Reasons for Visits: ?			
What treatment did you receive? ?			
What doctors do you see at this hospital/clinic on a regular basis?			

Name: [REDACTED]
Address: **ATTN: MEDICAL RECORDS**

Phone: [REDACTED]

Inpatient Date In 1:	Inpatient Date Out 1:
Inpatient Date In 2:	Inpatient Date Out 2:
Inpatient Date In 3:	Inpatient Date Out 3:
Outpatient Date First Visit: ?	Outpatient Date Last Visit: ?

Emergency Room Dates of Visits:
Next Appointment: **none**
Your Hospital/Clinic Number:

Reasons for Visits:
testing
What treatment did you receive?
testing
What doctors do you see at this hospital/clinic on a regular basis?

Name: [REDACTED]
Address: **ATTN: [REDACTED] MEDICAL RECORDS**

Phone: [REDACTED]

Inpatient Date In 1: 07/10/08	Inpatient Date Out 1: currently in hospital
Inpatient Date In 2:	Inpatient Date Out 2:
Inpatient Date In 3:	Inpatient Date Out 3:
Outpatient Date First Visit:	Outpatient Date Last Visit:

Emergency Room Dates of Visits:
Next Appointment: **none**
Your Hospital/Clinic Number:

Reasons for Visits:
congestive heart failure, diabetes
What treatment did you receive?
stress test, bloodwork
What doctors do you see at this hospital/clinic on a regular basis?

DuPlex

Supplemental Security Income

Notice of Reconsideration - Disability

From: Social Security Administration

Date: April 15, 2009

Claim Number: [REDACTED]

Reconsideration Filed: 10/20/2008

[REDACTED]

Upon receipt of your request for reconsideration we had your claim independently reviewed by a physician and disability examiner in the State agency which works with us in making disability determinations. The evidence in your case has been thoroughly evaluated; this includes the medical evidence and the additional information received since the original decision. We find that the previous determination denying your claim was proper under the law.

If you believe that the reconsideration determination is not correct, you may request a hearing before an administrative law judge of the Office of Disability Adjudication and Review. If you want a hearing you must request it not later than 60 days from the date you receive this notice. You may make your request through any Social Security office or on the Internet at <http://www.socialsecurity.gov/disability/appeal>. As part of the appeal process, you also need to tell us about your current medical condition. We provide a form for doing that, the Disability Report - Appeal. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete the report online after you complete the online Request for Hearing by Administrative Law Judge. Read the enclosed leaflet and the full explanation of your right to appeal on the second page of this notice.

How We Made The Decision

The following evidence was considered in evaluating your claim in addition to the medical reports already in file.

[REDACTED] report received 01/13/2009
[REDACTED] report received 12/13/2008
[REDACTED] report received 01/15/2009
[REDACTED] report received 12/08/2008
[REDACTED] report received 12/29/2008
[REDACTED] report received 12/23/2008
[REDACTED] report received 12/12/2008
[REDACTED] report received 12/17/2008
[REDACTED] report received 03/07/2009
records submitted by attorney on 2/26/09

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You said that you are unable to work because of diabetes, dizziness, numbness in hands and feet; heart disease, prior congestive heart failure, hbp and cholesterol; depression; degenerative disc disease, problems with left elbow and hand; vision problems; shortness of breath; sleep apnea; headaches; carpal tunnel; frequent bladder infections.

The evidence shows that Diabetes and hypertension have not caused damage to any vital organs. Your records indicate that you may have discomfort in your back, hands, or various other joints or muscles, however, you remain able to

stand, walk and move about adequately without assistance. You are able to use your hands and arms to perform ordinary tasks. You may experience fluctuations in vision at times, but evidence shows that your vision is corrected with prescription lenses. You have a history of heart disease with stent placement, but your records reveal that your heart is functioning satisfactorily at this time. Upon examination, your heart has a regular rate and rhythm, your lungs are clear and you have adequate breathing ability. You have normal reflexes and good muscle strength. Migraine headaches with some associated numbness or dizziness at times are treatable and should not prevent you from working on a regular basis. You may feel depressed at times, but this does not prevent you from performing ordinary activities such as caring for your personal needs, doing light household chores, managing your finances and socializing. We realize you may continue to have difficulties, but your condition is not so severe as to be disabling.

Based on the description of the job you performed as a scheduler in the past for several years, we have concluded that you have the ability to do this job.

If You Want Help With Your Appeal

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing you might lose some benefits, or not qualify for any benefits. So, if you disagree with this decision, you should file an appeal within 60 days.

You may want to contact your local public assistance office to find out if you qualify for payments from them.

The application you filed with us is not an application for medical assistance (Medicaid). If you need medical assistance or have any questions about your eligibility for Medicaid, you should get in touch with your local welfare/social service office.

Please get in touch with Social Security if you believe this decision is wrong or you have any questions or need more information. Most questions can be handled by phoning or writing any Social Security office. If you visit a Social Security office, please bring this notice with you. If the decision in your case is based on incorrect information, we will be happy to make whatever change is necessary.

Your Right To Appeal

If you still are not satisfied with the decision, you may request a hearing of this decision by the Office of Hearings and Appeals. **YOU MUST REQUEST THE HEARING IN WRITING WITHIN 60 DAYS FROM THE DATE YOU RECEIVE THIS NOTICE.** If you cannot send us a written request for a hearing within 60 days, be sure to contact us by phone. If you wait longer than 60 days, we will not conduct a hearing review of our decision unless you have a good reason for the delay.

If you request a hearing, your case will be assigned to an administrative law judge of the Office of Hearing and Appeals. The administrative law judge will let you know when and where your case will be heard.

The hearing proceedings are informal. The administrative law judge will summarize the facts in your case, explain the law, and state what must be decided. Then you will have an opportunity to explain why you disagree with the decision made in your case, to present additional evidence and to have a witnesses testify for you. You can also request the administrative law judge to subpoena unwilling witnesses to appear for cross-examination and to bring with them any information about your case. You have the right to request the administrative law judge to issue a decision based on the written record without you personally appearing before him/her. If you decide not to appear at the hearing, you still have the right to submit additional evidence. The administrative law judge will base the decision on the evidence in your file plus any new evidence submitted.

In having your case heard, you can represent yourself or be represented by a lawyer, a friend, or any other person. Contact your Social Security office for names of organizations that can help you.



Laurie Watkins
Regional Commissioner

Enclosure:
SSA Pub. No. 70-10281
SSA-L1130
SiMpLeX

CC: _____



PHYSICAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

CLAIMANT: [REDACTED]		SOCIAL SECURITY NUMBER: [REDACTED]	
NUMBERHOLDER (IF CDB CLAIM):			
PRIMARY DIAGNOSIS: DDD	RFC ASSESSMENT IS FOR: <input checked="" type="checkbox"/> CURRENT EVALUATION <input type="checkbox"/> DATE LAST INSURED: <input type="checkbox"/> DATE 12 MONTHS AFTER ONSET: <input type="checkbox"/> OTHER (SPECIFY):		
SECONDARY DIAGNOSIS: Diabetes Mellitus			
OTHER ALLEGED IMPAIRMENTS: HTN, Sleep Apnea, Carpal Tunnel, CAD, Migraine headaches			

PRIVACY ACT/PAPERWORK ACT NOTICE: The information requested on this form is authorized by Section 223 and Section 1633 of the Social Security Act. The information provided will be used in making a decision on this claim. Failure to complete this form may result in a delay in processing this claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and other agencies.

The **PAPERWORK REDUCTION ACT** of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to, a collection of information unless it displays a valid OMB control number.

TIME IT TAKES TO COMPLETE THIS FORM: We estimate that it will take you about 20 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form. If you have comments or suggestions on this estimate, write Social Security Administration ATTN: Reports Clearance Officer, 1-A-21 Operations Building, Baltimore, MD 21235-0001. Send only comments relating to our "time it takes" estimate to the office listed above. All requests for Social Security cards and other claims-related information should be sent to your local Social Security office, whose address is listed under Social Security Administration in the U.S. Government section of your telephone directory.

I. LIMITATIONS:

For Each Section A - F

- ⇒ Base your conclusions on **all evidence** in file (clinical and laboratory findings; symptoms; observations; lay evidence; reports of daily activities; etc.).
- ⇒ Check the blocks which reflect your **reasoned judgment**.
- ⇒ Describe how the **evidence substantiates your conclusions**. (Cite specific clinical and laboratory findings, observations, lay evidence, etc.).
- ⇒ Ensure that you have requested:
 - Appropriate treating and examining source statements regarding individual's capacities (DI 22505.000ff. and DI 22510.000ff.) and that you have given **appropriate weight to treating source conclusions**. (see section III)
 - Considered and responded to **any alleged limitations imposed by symptoms** (pain, fatigue, etc.) attributable, in your judgment, to be medically determinable impairment. Discuss your assessment of symptom-related limitations in the explanation for your conclusions in A-F below. (See also section II)
 - Responded to all allegations of physical limitations or factors which can cause physical limitations.
- ⇒ **Frequently** means occurring one-third to two-thirds of an 8-hour workday (cumulative, not continuous).
Occasionally means occurring from very little up to one-third of an 8-hour work day (cumulative, not continuous).

A. EXERTIONAL LIMITATIONS

None established. (Proceed to section B.)

1. Occasionally lift and/or carry (including upward pulling)
(maximum) -- when less than one-third of the time or less than ten pounds, explain the amount
(time/pounds) in item 6.

- less than 10 pounds
- 10 pounds
- 20 pounds
- 50 pounds
- 100 pounds or more

2. Frequently lift and/or carry (including upward pulling)
(maximum) -- when less than two-thirds of the time or less than ten pounds, explain the amount
(time/pounds) in item 6.

- less than 10 pounds
- 10 pounds
- 25 pounds
- 50 pounds or more

3. Stand and/or walk (with normal breaks) for a total of --

- less than 2 hours in an 8-hour workday
- at least 2 hours in an 8-hour workday
- about 6 hours in an 8-hour workday
- medically required hand-held assistive device is necessary for ambulation

4. Sit (with normal breaks) for a total of --

- less than about 6 hours in an 8-hour workday
- about 6 hours in an 8-hour workday
- must periodically alternate sitting and standing to relieve pain and discomfort. (If checked,
explain in 6.)

5. Push and/or pull (including operation of hand/foot controls) --

- unlimited, other than shown for lift and/or carry
- limited in **upper** extremities (describe nature and degree)
- limited in **lower** extremities (describe nature and degree)

6. Explain how and why the evidence supports your conclusions in items 1 through 5.
Cite the specific facts upon which your conclusions are based.

See Attached

B. POSTURAL LIMITATIONS

None established. (Proceed to section C.)

- | | | | | |
|---|---|-------------------------------------|-------------------------------------|--------------------------|
| | Should avoid all ladders, ropes
and scaffolds. | Frequently | Occasionally | Never |
| 1. Climbing - ramp/stairs
- ladder/rope/scaffolds | | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Balancing | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Stooping | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Kneeling | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Crouching | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Crawling | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. When less than two-thirds of the time for frequently or less than one-third of the time for occasionally, fully describe and explain. Also explain how and why evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based. | | | | |

See Attached

C. MANIPULATIVE LIMITATIONS

None established. (Proceed to section D.)

- | | | |
|---|--------------------------|--------------------------|
| | LIMITED | UNLIMITED |
| 1. Reaching all directions (including overhead) | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Handling (gross manipulation) | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Fingering (fine manipulation) | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Feeling (skin receptors) | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Describe how the activities checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in item 1 through 4. Cite specific facts upon which your conclusion is based. | | |

See Attached

D. VISUAL LIMITATIONS

None established. (Proceed to section E.)

- | | | |
|---|--------------------------|--------------------------|
| | LIMITED | UNLIMITED |
| 1. Near acuity | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Far acuity | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Depth perception | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Accommodation | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Color vision | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Field of vision | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Describe how faculties checked "limited" are impaired. Also explain how and why evidence supports your conclusions in item 1 through 6. Cite specific facts upon which your conclusions are based. | | |

See Attached

E. COMMUNICATIVE LIMITATIONS

None established. (Proceed to section F.)

- | | LIMITED | UNLIMITED |
|--|--------------------------|--------------------------|
| 1. Hearing | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Speaking | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe how the faculties checked in "limited" are impaired. Also, explain how and why the evidence supports your conclusions in items 1 and 2. Cite the specific facts upon which your conclusions are based. | | |

See Attached

F. ENVIRONMENTAL LIMITATIONS

None established. (Proceed to section II.)

- | | UNLIMITED | AVOID
CONCENTRATED
EXPOSURE | AVOID EVEN
MODERATE
EXPOSURE | AVOID ALL
EXPOSURE |
|---|-------------------------------------|-------------------------------------|------------------------------------|--------------------------|
| 1. Extreme cold | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Extreme heat | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Wetness | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Humidity | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Noise | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Vibration | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Fumes, odors, dusts,
gases, poor ventilation, etc. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Hazards (machinery,
heights, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Describe how these environmental factors impair activities and identify hazards to be avoided. Also, explain how and why evidence supports your conclusions in items 1 through 8. Cite the specific facts upon which your conclusions are based. | | | | |

See Attached

II. SYMPTOMS

For symptoms alleged by the claimant to produce physical limitations, and for which the following have not previously been addressed in section I, discuss whether:

- A. The symptom(s) is attributable, in your judgment, to a medically determinable impairment
- B. The severity or duration of the symptom(s), is in your judgment, is disproportionate to the expected severity or expected duration on the basis of the claimant's medically determinable impairment(s).
- C. The severity of the symptom(s) and it's alleged effect on function is consistent, in your judgment, with the total medical and non-medical evidence, including statements by the claimant and others, observations regarding activities of daily living, and alterations of usual behavior or habits.

See Attached

III. TREATING OR EXAMINING SOURCE STATEMENT(S)

- A. Is treating or examining source statement(s) regarding the claimant's physical capacities in file?

Yes

No (includes situations which there was no source or when the source(s) did not provide a statement regarding the claimant's physical capacities.)


- B. If yes, are there treating/examining source conclusions about the claimant's limitations or restrictions which are significantly different from your findings?

Yes

No

- C. If yes, explain why those conclusions are not supported by the evidence file. (Cite the source's name and the statement date)

See Attached

MEDICAL CONSULTANT'S SIGNATURE	MEDICAL CONSULTANT'S CODE	DATE
	12	4/9/09

RFC Continuation

Sections Being Modified

SSA-4734-UA – Physical RFC

- Section I. Limitations
 Section II. Symptoms
 Section III. Medical Source Statements

SSA-4734-BK-Sup – Mental RFC

- Section III. Functional Capacity Assessment

SSA-2506-BK – PRTF

- Psychiatric Review Technique Form

SSA-538-F6 – Childhood Disability Evaluation Form

- Section III. Explanation of Findings

These findings complete the medical portion of the disability determination.

48 year-old female alleges "diabetes, heart, hypertension, cholesterol, depression, degenerative disc disease, left elbow pain, limited use of left hand, headaches, dizziness, numbness in feet, fatigue, shortness of breath, blurred vision". Diagnosis: (1) Chronic lower back pain and pain and numbness in the lower extremities musculoskeletal in nature from chronic degenerative lumbar disk disease, as well as small fiber generalized neuropathy from diabetes mellitus, (2) Chronic pain and numbness in the upper extremities from moderate bilateral carpal tunnel syndrome; (3) Recurrent migraine/tension headaches; (4) Chronic polyarthralgia; (5) Anxiety disorder with insomnia, (6) Obstructive sleep apnea. Medications: Elavil, Plavix, Gemfibrozil, Pravastatin, Metformin, Atenolol, Lexapro, Lisinopril, Glipizide, Aspirin, and Lantus insulin.

Alleged onset date: 11/06/2007
Educational years: 12 GRADE. No special education
Vocational background: [REDACTED]
Occupational years: 15 DLI date: 12/31/2012
Visual impairment
Concurrent

6/11/08 Physical examination is unremarkable for significant abnormality.

6/24/08 MRI scan of the brain: Small area of increased signal intensity in the white matter on the left, which may represent chronic ischemic change. There is only one area involved, and there is no enhancement.

7/10/08 chest x-ray: unremarkable for significant abnormality.

7/1/08 EKG: Negative EKG component, but positive symptoms

7/11/08 Echocardiogram: Trivial mitral regurgitation; otherwise benign echocardiogram with normal left ventricular cavity size and normal left ventricular systolic function.

7/11/08 Stress myocardial perfusion imaging scan: negative, normal stress myocardial perfusion imaging; also negative, normal gated SECT imaging.

7/18/08 Polysomnography revealed obstructive sleep apnea-hypopnea syndrome with significant response to CPAP therapy.

7/30/08 Physical examination: Blood pressure 122/68; she is awake, alert and oriented to person, place, and time. Her speech and cognition are normal. Cranial nerves 2 to 12 are intact. No nystagmus noted. She has normal muscle strength in all four extremities. No sensory deficit elicited. DTRs are 2+/2+ bilaterally symmetrical. Her coordination and gait are normal.

Activities of daily living reveal the claimant manages personal care independently. She prepares complete meals. Concerning house hold chores, she dusts, vacuuming, and does the laundry. She drives a car. She shops for groceries, clothes, and medicine. She manages her personal finances. She socializes regularly. She can walk up to one-half mile. She ambulates with a cane. She can follow instructions with some repetition. She gets along with authority figures.

Records reveal no significant damage to vital organs due to hypertension, diabetes mellitus, or cholesterol levels. There is no significant abnormality related to headaches, dizziness, numbness, fatigue, shortness of breath, and blurred vision. She has adequate range of motion and muscle strength throughout.

In assessing the credibility of the claimant's statements regarding symptoms and their effects on function, her medical history was considered.

Of greatest significance in determining the credibility of the claimant's statements regarding symptoms and their effects on her functioning was her medical history. The description of the symptoms and limitations provided by the claimant throughout the record has been inconsistent and is not persuasive. Based on the evidence of record, the claimant's statements are found to be partially credible.

RECONSIDERATION ADDENDUM

The claimant alleges diabetes, dizziness, numbness in hands and feet; heart disease, prior congestive heart failure, hbp and cholesterol; depression; degenerative disc disease, problems with left elbow and hand; vision problems; shortness of breath; sleep apnea; headaches; carpal tunnel; frequent bladder infections, and that her condition has worsened. The evidence establishes the impairments of DDD, Diabetes Mellitus, CAD (s/p acute coronary syndrome and placement of 2 stents), HTN, Obstructive Sleep Apnea, and bilateral Carpal Tunnel Syndrome.

Claimant had outpatient PT in September 2008 to help strengthen her legs. She reported on 10/02/08 that she was doing well, and her physical therapist noted that she tolerated all exercises well. A neurology follow up on 11/05/08 reports she has recurrent migraine headaches, chronic pain and numbness in all extremities, and bilateral CTS. She was encouraged to consider carpal tunnel release. A visual exam on 12/05/08 revealed VA corrected was OD 20/25; OS 20/25 and OU 20/20-2. There were no signs of diabetic retinopathy. Her diagnosis is Myopic astigmatic presbyope. An exam on 12/09/08 revealed the claimant has gained over 50# in the past year. Current medications are Metformin, Gemfibrozil, Lantus insulin, Humalin, Lyrica, Furosemide, Plavix, Lisinopril, Atenlol, pravastatin, lexapro, CPAP. She was alert, cooperative, pleasant and NAD. Lungs were clear, heart was RRR, normal bowel sounds, no cyanosis, clubbing or edema of extremities. She was neurologically intact. Sensory and motor were intact. These records also note the claimant has a history of CAD and is s/p acute coronary syndrome with two stents implanted in November 2007. A cervical MRI on 1/13/09 revealed DDD throughout the C-spine.

The opinion of _____ that claimant was temporarily disabled from 3/11/08 to 6/11/08, is an Issue Reserved to the Commissioner, however, this opinion has been considered in this evaluation.

The claimant's statements are considered to be partially credible. Although she has bilateral carpal tunnel syndrome, she remains able to use her hands and arms for ordinary activities. She has diabetes without evidence of end organ damage. She has normal strength and ROM of her extremities. Her heart and lungs are functioning satisfactorily. She has degenerative changes of the spine but is able to stand and walk without assistance. She uses a cane at times, but the evidence does not indicate that this is a medical necessity. The claimant should be able to perform work at the level described herein. _____ 434 Spec. Code: 12

4/9/09

Signature

NH [REDACTED]

: UNIT: DVTDTV :
: :
: :
: :
: :
: :
: :
: :
: :

[REDACTED]

REQUEST FOR HEARING BY ADMINISTRATIVE LAW JUDGE

On May 1, 2009, we talked with you and completed your REQUEST FOR HEARING for SOCIAL SECURITY BENEFITS. We stored your REQUEST FOR HEARING information electronically in our records and attached a summary of your statements.

What You Need To Do

- o Review your REQUEST FOR HEARING to ensure we recorded your statements correctly.
- o If you agree with all your statements, you may retain the REQUEST FOR HEARING for your records.
- o If you disagree with any of your statements, you should contact us within 10 days after the date of this notice to let us know.

MY NAME IS [REDACTED]

MY SOCIAL SECURITY NUMBER IS [REDACTED]

I REQUEST A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE. I DISAGREE WITH THE DETERMINATION MADE ON MY CLAIM FOR SSI DISABILITY/TITLE II BENEFITS BECAUSE I AM DISABLED

I AM SUBMITTING ADDITIONAL EVIDENCE WITH THIS REQUEST.

I WISH TO APPEAR AT A HEARING. I UNDERSTAND THAT AN ADMINISTRATIVE LAW JUDGE OF THE OFFICE OF DISABILITY ADJUDICATION AND REVIEW WILL BE APPOINTED TO CONDUCT THE HEARING OR OTHER PROCEEDINGS IN MY CASE. I ALSO UNDERSTAND THAT THE ADMINISTRATIVE LAW JUDGE WILL SEND ME NOTICE OF THE TIME AND PLACE OF A HEARING AT LEAST 20 DAYS BEFORE THE DATE SET FOR A HEARING.

IT COULD BE ESPECIALLY USEFUL IN MY CASE SINCE THE ADMINISTRATIVE LAW JUDGE WOULD HAVE AN OPPORTUNITY TO HEAR AN EXPLANATION AS TO HOW MY IMPAIRMENTS PREVENT ME FROM WORKING AND RESTRICT MY ACTIVITIES.

NH [REDACTED]

I AM REPRESENTED BY [REDACTED] WHO IS AN ATTORNEY.

MY PHONE NUMBER IS [REDACTED]

DATE May 1, 2009.

Office/Outpatient Visit
Visit Date: Thu, Jan 7, 2010 11:40 am to 11:55 am (Initial Individual Therapy)
Provider: [REDACTED]
Location: [REDACTED]

Electronically signed by [REDACTED] on 01/08/2010 12:25:49 PM
Printed on 01/08/2010 at 12:25 pm

SUBJECTIVE:

CC: REFERRED BY [REDACTED] OR PRE-SURGICAL PSYCHOLOGICAL ASSESSMENT PRIOR TO GASTRIC BYPASS SURGERY

HPI: DIABETES, HYPERTENSION, HIGH CHOLESTEROL, HEART ATTACK WITH PLACEMENT OF STENTS, CONGESTIVE HEART FAILURE, DEGENERATIVE DISC DISEASE, ARTHRITIS, SLEEP APNEA, HEARTBURN/GERD, KIDNEY STONES, SKIN CANCER BY HISTORY

Past Medical History / Family History / Social History: 49 YEAR OLD CAUC FEMALE, MARRIED TWICE AND DIVORCED TWICE, CURRENTLY LIVING WITH DIVORCED SPOUSE, THREE CHILDREN AGES 30, 25 AND 18.

SHE WAS BORN IN [REDACTED] AS [REDACTED] HER FATHER (76) IS ALIVE AND HAS A MEDICAL HX OF HEART ATTACK. HER MOTHER IS (74) AND HAS A HISTORY OF DIABETES. SHE HAS 3 SIBLINGS AND 2 HAVE DIABETES. THERE IS NO CLEAR MENTAL HEALTH HISTORY IN THE FAMILY. [REDACTED] GRADUATED FROM HIGH SCHOOL AND WENT ON TO 'SOME COLLEGE' STUDYING ACCOUNTING. SHE WAS PREGNANT AND GAVE BIRTH AT 17. SHE MARRIED THE CHILD'S FATHER, [REDACTED] AND DIVORCED 5 YEARS LATER. SHE HAD A SECOND CHILD, [REDACTED] ABOUT THE TIME OF THE DIVORCE. SHE HAD GESTATIONAL DIABETES DURING THIS PREGNANCY. A PRIMARY CAUSE OF THE DIVORCE WAS AN INJURY TO [REDACTED] CAUSING HEAD TRAUMA. "I GUESS WE BOTH BLAMED EACH OTHER."

SHE MOVED TO NEW YORK AND WORKED IN [REDACTED] AND BECAME INVOLVED WITH A MAN NAMED [REDACTED]. THEY MOVED TOGETHER TO FLORIDA AND SHE WORKED FOR A YEAR AT A [REDACTED] REEFERIE. SHE LEFT [REDACTED] AND MOVED BACK TO PENNSYLVANIA. SHE WENT TO WORK AT A COMPANY [REDACTED] SACKS AND BECAME INVOLVED WITH [REDACTED] AND EVENTUALLY THEY MARRIED. HER EX-HUSBAND [REDACTED] SUED HER FOR CUSTODY OF HER CHILDREN (10 AND 5) AND WON. SHE DESCRIBES THIS AS A PARTICULARLY HARD TIME IN HER LIFE EMOTIONALLY. GRADUALLY SHE FOUND OUT THAT [REDACTED] WAS ENGAGED IN ILLEGAL ACTIVITIES (BOOK MAKING) AND HAD ALCOHOL AND DRUG PROBLEMS WHICH LED TO THEIR SEPARATION AND DIVORCE AFTER HER THIRD CHILD, [REDACTED] WAS BORN. [REDACTED] WAS IN JAIL IN MICHIGAN FOR A YEAR WHILE THEY WERE SEPARATED IN 2001. CURRENTLY THEY ARE BACK LIVING TOGETHER. SHE SAYS THAT HE IS CHANGED AND THAT HE IS WORKING STEADILY MANAGING A GROCERY STORE AND NOT USING DRUGS OR ALCOHOL.

WORK HX: AS MENTIONED PREVIOUSLY SHE WORKED IN NEW YORK AT A [REDACTED] TGBY THEN IN FLORIDA FOR A YEAR AT [REDACTED]. SHE WORKED FOR [REDACTED] IN PENNSYLVANIA AND ALSO FOR [REDACTED] UNTIL SHE WAS LAID OFF. SINCE MOVING TO VIRGINIA IN 2007 SHE HAS NOT WORKED.

MEDICAL HISTORY: AS A CHILD SHE WAS HEALTHY BUT OVERWEIGHT TO SOME DEGREE. SHE SUMMED DOWN AS A TEENAGER UNTIL SHE BECAME PREGNANT AT 17. SHE HAD MORE WEIGHT GAIN AFTER THE BIRTH OF HER SECOND CHILD. DURING HER ADULT LIFE SHE HAS BEEN OVERWEIGHT WEIGHING BETWEEN 145 AND 160 LBS AND BEING 5' 1" TALL. SHE WENT THROUGH VARIOUS DIETS AND WEIGHT LOSS PLANS AND WAS VERY SUCCESSFUL LOSING 40 LBS GOING TO LA. WT LOSS BUT PUT IT ALL BACK ON AFTER THE PROGRAM WAS OVER. SHE REPORTS THAT HER THYROID IS FUNCTIONAL, THAT SHE TRIES TO EAT SENSIBLY BUT CONTINUES TO GAIN WEIGHT UNCONTROLLABLY. PRESENTLY SHE WEIGHS 216 LBS WHICH IS THE MOST SHE HAS EVER WEIGHED. SHE HAS TROUBLE EXERCISING DUE TO DEGENERATIVE DISC DISEASE IN HER NECK AND SUBSEQUENT ARTHRITIC PAIN IN HER NECK AND SHOULDERS. SHE WALKS WITH A CANE DUE TO BOUTS OF FALLING DUE TO UNSTEADINESS AND WEAKNESS.

SHE HAD A HEART ATTACK IN 2007 AND WAS HOSPITALIZED AND 2 STINTS WERE PLACED. SUBSEQUENTLY SHE HAS BEEN THROUGH 2 ADDITIONAL HEART CATHETERIZATIONS. SHE HAS AN ONGOING HISTORY OF DIABETES, HYPERTENSION, CONGESTIVE HEART PROBLEMS, HIGH CHOLESTEROL, DEGENERATIVE DISC DISEASE, ARTHRITIS IN NECK AND SHOULDERS, SLEEP APNEA AND USES A CPAP MACHINE. HEARTBURN/GERD, A HX OF KIDNEY STONES, 'SKIN CANCER' IN 2008 AND CURRENTLY HAS A BREAST LUMP WHICH IS SUSPICIOUS. SHE HAS A HISTORY OF APPENDECTOMY, C-SECTION X 3, AND

Office/Outpatient Visit
Visit Date: Thu, Jan 7, 2010 11:00 am to 11:55 am (Initial individual therapy)
Provider: [REDACTED]
Location: [REDACTED]

Electronically signed by [REDACTED] on 01/08/2010 12:25:49 PM
Printed on 01/09/2010 at 12:26 pm.

HYSTERECTOMY

Current Problem: [REDACTED] REPORTS A HISTORY OF DEPRESSION GOING BACK TO HER SECOND DIVORCE SHE HAS TAKEN LEXAPRO 10 MG FOR SEVERAL YEARS. THIS DEPRESSION IS PROBABLY DRIVEN OR AT LEAST AGGRAVATED BY HER INCREASING LEVELS OF CHRONIC PAIN AND THE COMPOUNDING STRESS OF HER MULTIPLE HEALTH PROBLEMS. SHE DENIES SUBSTANCE ABUSE OTHER THAN TOBACCO (1/2 PACK A DAY) AND UNDERSTANDS THAT SHE WILL BE REQUIRED TO ABSTAIN FROM SMOKING PRIOR TO HER SURGERY.

SHE WAS ASKED TO COMPLETE A BASIC PERSONALITY INVENTORY WHICH IS A 240 QUESTION TRUE/FALSE FORMAT ASSESSMENT OF MENTAL HEALTH STATUS. HER RESPONSES CONFIRM HER REPORTED LEVEL OF DEPRESSION (T=75). IT ALSO DEMONSTRATES CONCERNS RELATED TO HER HEALTH PROBLEMS (HYPOCHONDRIASIS) (T=70) AND ANXIETY RELATED ISSUES (T=75). THE AREA OF GREATEST CONCERN IS INDICATED TO BE SOCIAL INTROVERSION WHICH COULD TRANSLATE INTO A LACK OF SOCIAL/EMOTIONAL SUPPORT (T=90). HER LOWEST OR MOST POSITIVE SCORES WERE IN THE AREA OF DENIAL (T=52), THINKING DISORDER (T=50) AND SELF-DEPRECIATION (T=40).

SHE DISPLAYS A WILLINGNESS TO FOLLOW MEDICAL DIRECTIONS AND COMPLICATED MEDICATION ROUTINES. SHE HAS A GOOD SENSE OF THE RISKS AND THE REASONABLE BENEFITS OF THE SURGERY. HER LIFE STYLE DOES NOT DEMONSTRATE IMPULSIVITY PROBLEMS OR ROUTINELY POOR JUDGMENT.

Current Medications: METFORMIN 1000 MG BID; ACTOS 30 MG DAILY; HUMALOG 50/50 30 UNITS AT DINNER; NOVALOG 70/30 BEFORE MEALS; LANTUS 40 UNITS BID; ULTRAM ER 200 MG DAILY; GABAPENTIN 300 MG TID; ALBUTEROL 2 PUFFS PRN; ASPIRIN 81 MG DAILY; FLEXERIL 10 MG TID; ALEVE LIQUID GELS; FUROSEMIDE/LASIX 20 MG DAILY; ISOSORBIDE 30 MG DAILY; LISINAPRIL 5 MG DAILY; ATENDLOL 25 MG DAILY; PREVASTATIN 80 MG HS; LOPID 600 MG BID; LEXAPRO 10 MG DAILY; NASONEX PRN; PROGESTERONE/BIEST; PRILOSEC 20 MG DAILY; METAMUCIL 5.8 MG TID.

None

ASSESSMENT: [REDACTED] PRESENTS AS AN ACCEPTABLE CANDIDATE FOR GASTRIC BYPASS SURGERY. IF THERE ARE ANY QUESTIONS REGARDING THIS ASSESSMENT PLEASE DON'T HESITATE TO CONTACT ME.

293.83 Mood disorder due to MULTIPLE CHRONIC ILLNESS AND CHRONIC PAIN

ORDERS:

Procedures Ordered:

Psychiatric diagnostic interview/examination

PLAN:

Mood disorder due to

Orders:

Psychiatric diagnostic interview/examination

(The following is a transcript in the hearing held before Karen B. Peters, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on May 19, 2010, at Bristol, Virginia, in the case of [REDACTED] Social Security Number [REDACTED] the Claimant appeared in person and was represented by [REDACTED], Attorney. Also present was [REDACTED] Vocational Expert.)

(The hearing commenced at 11:24 a.m. on May 19, 2010.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: Well, good morning [REDACTED]. I'm Karen Peters, I'm the Administrative Law Judge. Counselor, do I need to go over the definition of disability in any preliminary matter?

ATTY: You don't, Your Honor. I waive reading of those.

ALJ: All right. Now, according to my notes, this lady applied July 11th of 2008. Her date last insured is 12/31/2012, so she's well within her insurance status. Let's look at our e-file index; we have through 4A, 12B, 5D, 13E and then the F section, 21F. The last notes being [REDACTED] (PHONETIC) of April 2010. Any objection to admitting the record, sir?

ATTY: I do not, Your Honor.

(Exhibits 1A through 21F, previously identified, were received into evidence and made a part of the record thereof).

ALJ: Let me state for the record that just before we went on record, we had a brief discussion -- or I had a brief discussion with counsel about the possibility of amending the onset in this case to this lady's 49-and-a-half birthday which is how far we can take a grid backwards. You would be 50 as of [REDACTED] of this year?

CLMT: Yes.

ALJ: So you just 49, [REDACTED] Okay, so if you move that six months, September, October, November, December, January -- so we're

talking about March 19th of this year, that isn't going to give her much of a lump sum.

ATTY: Right.

ALJ: But, at least that gets us lined up with where the medical record is, I think. And the reason I'm trying to reach an agreement on this ma'am, is that we have a physical assessment, 17F, by a physician. A physician actually reviewed your record April 9th of 2010. He put you at a light exertional level. It seems to me that over time you've actually been getting worse so that -- you wouldn't disagree with that. And so it seems to me that some point in time, you along the way, probably have actually reached the sedentary exertional level. And the, the furthest back I can stretch it and meet the grid rules would be age 49-and-a-half, and that simplifies things for us and allows me to reach a decision more quickly and conclusively using that grid rule. But you are giving up a little bit of -- not a little bit -- you're giving up your onset date of July of '08 -- excuse me, your onset of November of '07 and moving it forward to March of '09. Are you satisfied with that result? Do you understand why we're trying to --

CLMT: Yes.

ALJ: -- to settle it that way?

CLMT: Yes.

ALJ: Okay. If you're satisfied with that ma'am, then I will find in your favor that you are at a sedentary exertional level, and that you could not return to your past work at a sedentary exertional level with some other limitations that you might have, and that

therefore you would fit that grid rule. Okay? Anything else sir?

ATTY: I think that's everything, Your Honor.

ALJ: All right. Thank you all so much, we appreciate your coming and we'll get a decision out to you as quickly as we can ma'am.

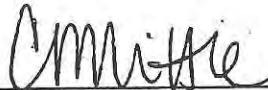
CLMT: Thank you.

ALJ: All right, thank you.

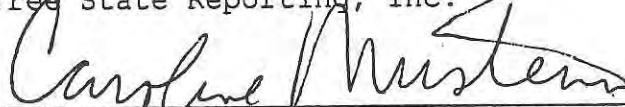
(The hearing closed at 11:28 a.m. on May 19, 2010.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED], before Administrative Law Judge Karen B. Peters.



Christy Little, Transcriber
Free State Reporting, Inc.



Caroline Musterman, Proofreader
Free State Reporting, Inc.

**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability, Disability Insurance
Benefits, and Supplemental Security Income

(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated May 1, 2009 (20 CFR 404.929 *et seq.* and 416.1429 *et seq.*). On May 19, 2010, the undersigned held a video hearing (20 CFR 404.936(c) and 416.1436(c)). The claimant appeared in Bristol, VA, and the undersigned presided over the hearing from Bristol, VA. _____ an impartial vocational expert, also appeared at the hearing. The claimant is represented by _____ an attorney.

At the hearing, the claimant and her representative amended the alleged onset date of disability from November 6, 2007 to March 19, 2010, which is within 6 months of the claimant's 50th birthday.

ISSUES

The issue is whether the claimant is disabled under sections 216(i), 223(d) and 1614(a)(3)(A) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

With respect to the claim for a period of disability and disability insurance benefits, there is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2012. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from March 19, 2010, through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

Permanent Subcommittee on Investigations

EXHIBIT #17g

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is severe or a combination of impairments that is severe (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f) and 416.920(f)). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the undersigned must determine whether the claimant is able to do any other work considering her

residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g), 404.1560(c), 416.912(g) and 416.960(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

- 1. The claimant's date last insured is December 31, 2012.**
- 2. The claimant has not engaged in substantial gainful activity since March 19, 2010, the amended alleged onset date (20 CFR 404.1520(b), 404.1571 *et seq.*, 416.920(b) and 416.971 *et seq.*).**
- 3. The claimant has the following severe impairments: morbid obesity, diabetes mellitus, diabetic neuropathy, cervical degenerative disc disease, status post bilateral carpal tunnel release surgery, status post myocardial infarction, gastroesophageal reflux disease (GERD), and depress**

On April 9, 2009, _____, reviewed the claimant's evidence in file and assessed her as able to perform light work (Exhibit 17F). _____ said the claimant had been diagnosed with chronic lower back pain, chronic numbness and pain of her lower extremities, which was due to diabetic neuropathy and degenerative disc disease, chronic pain and numbness in the upper extremities due to carpal tunnel syndrome, chronic polyarthralgias, and obstructive sleep apnea.

On March 15, 2010, _____ performed a checkup on the claimant for an episode of syncope (Exhibit 27F-8). _____ said the claimant's past medical history included coronary artery disease, status post stent placement in November 2007, hyperlipidemia, hypertension, myocardial infarction x 2, sleep apnea, renal stones, diabetes mellitus type II, and carpal tunnel syndrome. On physical examination, the claimant was 61 inches tall and weighed 230 pounds.

- 4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).**
- 5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform the full range of sedentary work as defined in 20 CFR 404.1567(a) and 416.967(a).**

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p, 96-6p and 06-3p.

After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical consultants' physical assessments are given little weight because evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565 and 416.965).

The demands of the claimant's past relevant work exceed the residual functional capacity.

7. Applying the age categories non-mechanically, and considering the additional vocational adversities in this case, the claimant was an individual closely approaching advanced age on the established disability onset date (20 CFR 404.1563 and 416.963).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564 and 416.964).

9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568 and 416.968).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c), 404.1566, 416.960(c), and 416.966).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11).

Based on a residual functional capacity for the full range of sedentary work, considering the claimant's age, education, and work experience, a finding of disabled is directed by Medical-Vocational Rule 201.14.

11. The claimant has been under a disability as defined in the Social Security Act since March 19, 2010, the amended alleged onset date of disability (20 CFR 404.1520(g) and 416.920(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on July 8, 2008, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since March 19, 2010.

Based on the application for supplemental security income protectively filed on July 8, 2008, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since March 19, 2010.

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments and, if the claimant is eligible, the amount and the months for which payment will be made.

/s/ Karen B. Peters

Karen B. Peters
Administrative Law Judge

May 28, 2010

Date

DuPlex

Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Disapproved Claim

Date: August 29, 2006
Claim Number [REDACTED]

[REDACTED]
[REDACTED]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

We have enclosed information about the disability rules.

About The Decision

Doctors and other trained staff looked at your case and made this decision. They work for your State but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in your case.

How We Made The Decision

All relevant reports were requested and the following evidence was used to decide your claim.

[REDACTED] report received 07/05/2006
[REDACTED] MD report received 06/16/2006
[REDACTED] report received 07/27/2006
[REDACTED] report received 06/05/2006 and 06/22/2006
[REDACTED] R report received 06/22/2006
[REDACTED] report received 08/02/2006
[REDACTED] reports received 05/30/2006 and 06/09/2006

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You said that you are unable to work because of severe back and leg pain, nerve problems, numbness, insomnia due to pain, and bulging disc.

The evidence shows that your conditions have caused you some limitations in your ability to function. However, evidence shows that despite having back and leg pain and numbness, you are able to stand, walk, move about, and use your arms and hands within an adequate range. While your insomnia may be bothersome, this condition is not so severe as to be considered totally disabling. Although you may occasionally feel nervous and depressed, you are able to understand, remember, cooperate with others, and perform your normal daily tasks.

We realize that your condition keeps you from doing the type of work that you have done in the past, but it does not keep you from doing less demanding work.

[REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #18a

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

If You Disagree With The Decision

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a form SSA-561-U2, called "Request for Reconsideration." You may request this form online at: <http://www.socialsecurity.gov/online/ssa-561.pdf>. Contact one of our offices if you want help.
- In addition, you have to complete a "Reconsideration Disability Report" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online at <http://www.socialsecurity.gov/disability/recon>.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the appeal.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

If You Want Help With Your Appeal

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee.

Other Benefits

Based on the application you filed, you are not entitled to any other benefits, besides those you may already be getting. In the future, if you think you may be entitled to other benefits you will need to apply again.



If You Have Any Questions

If you have any questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at the number shown below. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SSA - BLUEFIELD
3014 E CUMBERLAND RD
BLUEFIELD, WV 24701

304 327-7671

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.

Laurie Watkins
Regional Commissioner

Enclosures:
SSA Pub. No. 05-10058
Disability Rules Factsheet

CC: _____



DuPlex

Social Security

Notice of Reconsideration

From: Social Security Administration

Date: April 4, 2007

Claim Number [REDACTED]

[REDACTED]

Upon receipt of your request for reconsideration we had your claim independently reviewed by a physician and disability examiner in the State agency which works with us in making disability determinations. The evidence in your case has been thoroughly evaluated; this includes the medical evidence and the additional information received since the original decision. We find that the previous determination denying your claim was proper under the law. The last page of this notice identifies the legal requirements for your type of claim.

The determination on your claim was made by an agency of the State. It was not made by your own doctor or by other people or agencies writing reports about you. However, any evidence they gave us was used in making this determination. Doctors and other people in the State agency who are trained in disability evaluation reviewed the evidence and made the determination based on Social Security law and regulations.

If you believe that the reconsideration determination is not correct, you may request a hearing before an administrative law judge of the Office of Hearings and Appeals. If you want a hearing, you must request it not later than 60 days from the date you receive this notice. You may make your request through any Social Security office. As part of the appeal process, you also need to tell us about your current medical condition. We provide a form for doing that, the Disability Report - Appeal. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete the report online at <http://www.socialsecurity.gov/disability/hearing>. Read the enclosed leaflet for a full explanation of your right to appeal. If you do not request a hearing of your case within the prescribed time period, you still have the right to file another application at any time.

How We Made the Decision

The following evidence was considered in evaluating your claim in addition to the medical reports already in file.

[REDACTED] report received 03/06/2007

[REDACTED] S report received 03/09/2007

[REDACTED] report received 03/20/2007

[REDACTED] report received 03/13/2007

[REDACTED] B report received 03/30/2007

[REDACTED] report received 02/12/2007

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You said that you are unable to work because of severe back and leg pain, numbness, insomnia due to pain, bulging disc, nerves, depression, problems with memory and concentration.

The evidence shows that while you experience some restrictions as a result of your back and leg pain and numbness, you are able to perform some limited standing and walking should be able to perform work activities that do not require an excessive amount of these activities. Although you report difficulties with your nerves resulting in insomnia,

[REDACTED] [REDACTED]

Permanent Subcommittee on Investigations

EXHIBIT #18b

problems with your memory and concentrating, evidence shows that you continue to be able to act, think and communicate in your own interest.

We realize that your condition keeps you from doing the type of work that you have done in the past, but it does not keep you from doing less demanding work.

If You Want Help With Your Appeal

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee.

New Application

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

This decision refers only to your claim for benefits under the Social Security Disability Insurance Program. If you applied for other benefits, you will receive a separate notice when a decision is made on that claim(s).

If you have questions about your claim, you should get in touch with any Social Security office. Most questions can be handled by telephone or mail. If you visit an office, however, please take this letter with you.



Summarized below are legal requirements for the various types of disability claims:

Disability Insurance Claim

To be considered disabled, a person must be unable to do any substantial gainful work due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in his or her usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether he or she can work.

Disabled Widow (Widower) Claim

A widow, widower, or surviving divorced wife (age 50-60) must meet the disability requirement of the law within a specified 7-year period. A person may be considered disabled only if he or she has a physical or mental impairment that is so severe as to ordinarily prevent a person from working. The disability must have lasted or be expected to last for a continuous period of at least 12 months.


Child Disability Benefits

Childhood disability benefits may be paid to a person age 18 or older if the person has a disability which began before age 22 or within 84 months of the end of an earlier period of childhood disability. The condition, whether physical or mental, must be severe enough to keep the person from doing any substantial gainful work. We look at the person's age, education and previous training when we decide whether he or she can work. In addition, the condition must have lasted or be expected to last for at least 12 months in a row.

Laurie Watkins
Regional Commissioner

Enclosure:
SSA Pub. No. 70-10281
SSA-L928

SiMpLeX





[Redacted]

Physical Therapy • Occupational Therapy

**FUNCTIONAL CAPACITY EVALUATION
SAPLING GROVE REHABILITATION SERVICES**

PATIENT: [Redacted]
DATE: 09/26/2006
MRN: [Redacted]
DOB: [Redacted]
EMPLOYER: [Redacted]
JOB TITLE: Mechanic
PHYSICIAN: [Redacted]
DIAGNOSIS: Lumbar degenerative disc disease and lumbar spondylosis with myelopathy
CASE MANAGER: [Redacted]

GENERAL INFORMATION

HISTORY: This alert, oriented, and cooperative 35 year-old white male was referred to [Redacted] a Functional Capacity Evaluation by [Redacted]. The patient states he was injured at work on 08/25/05 when he was lifting a mining jack. He states he felt a pop in his back with immediate onset of pain, which became more severe over the next 2-3 days. He has undergone epidural steroid injections x2 without improvement as well as facet joint injections x3 without improvement. He has been off work since 08/26/05.

SUBJECTIVE: The patient currently rates his pain at 7 of 10. He describes the pain as constant in the lower back bilaterally radiating into the hips with constant pain in the left lower extremity to the knee. He reports occasional tingling in the feet bilaterally, left greater than right as well as occasional pain in the right lower extremity which he indicates is not as severe as the left. It should be noted that he drove approximately 1 1/2 hours to the clinic this morning and last took his pain medication at approximately 8:00 a.m. Start of the evaluation was 10:00 a.m.

PAST MEDICAL HISTORY: The patient denies any other medical problems. He denies any significant prior injury to his current complaints.

JOB TITLE: [Redacted] The patient states that his job required frequent lifting, pushing, pulling, bending, stooping, and reaching of various weights occasionally heavy. He states he has been off work since the day after the injury on 08/26/05.

[Redacted]

Page 2
Functional Capacity Evaluation

Name [REDACTED]
Date: 09/28/2006

MUSCULOSKELETAL ASSESSMENT

INITIAL VITAL SIGNS:

Height: 5'11"
Weight: 217 pounds.
Blood pressure: 140/80.
Heart rate: 84 bpm.
Pain Rating: 6/10.

TRUNK RANGE OF MOTION: Using goniometric technique, the patient demonstrates the following range of motion:

Flexion 48°
Extension to neutral
Right side bending 15°
Left side bending 20°

He reports pain primarily with flexion, but also has pain with all other movements.

CERVICAL RANGE OF MOTION: Using goniometric technique, the patient demonstrates active range of motion as follows:

Flexion 45°
Extension 30°
Rotation right 55°
Rotation left 55°

No specific complaints of pain with movement.

UPPER EXTREMITY RANGE OF MOTION: Using goniometric technique, the patient demonstrates active range of motion of both upper extremities grossly within normal limits with the exception of shoulder flexion and abduction, which was limited to approximately 120° due to low back pain.

LOWER EXTREMITY RANGE OF MOTION: Using goniometric technique, the patient demonstrates active range of motion of both lower extremities grossly within normal limits with the exception of bilaterally hip flexion which was limited to 90° in the sitting position due to low back pain.

MANUAL MUSCLE TESTING: In the upper extremities, the patient demonstrates gross 5/5 strength with myotome testing although he does complain of pain with resisted shoulder flexion and abduction. Lower extremity strength measures as follows:

Right hip flexion 4+/5 with low back pain
Left hip flexion 3/5 with low back pain
Right knee flexion 5/5
Left knee flexion 4+/5
Knee extension 5/5 bilaterally
Left dorsiflexion 4-5
Bilateral plantar flexion 3/5 (the patient was unable to perform bilateral heel raise)

Page 3
Functional Capacity Evaluation

Name: [REDACTED]
Date: 09/26/2006

NEUROLOGICAL: Reflexes are 2+ in bilaterally lower extremities at the knees and the ankles. The patient does report a slight decrease in sensation in the left foot along the bottom; however, no specific dermatome.

GAIT: The patient ambulates with a stooped somewhat flexed posture at the waist and the hips with a limp on the left. However, he does not utilize an assistive device.

GENERAL OBSERVATIONS: The patient appears to be in acute distress frequently shifting his position, sitting and standing frequently, rubbing his leg. When sitting, he sits on either hip not symmetrically as well as leans on his upper extremities.

PALPATION: The patient is moderately tender in bilateral lumbar paraspinals as well as along the PSIS. Moderate tenderness with palpation of the central spine along L5-S1 area.

SPECIAL TESTS: Utilizing Waddell's Non-organic physical signs of low back pain, the patient tested positive in 1 of 5 categories which included simulation test (positive for axial loading). Other tests performed include straight leg raising which was positive at approximately 60° for low back pain, negative for neurological symptoms. Sitting straight leg raise was positive for low back pain.

OBJECTIVE FUNCTIONAL ASSESSMENT

HANDGRIP STRENGTH TEST: The patient's static handgrip strength was assessed using the handheld dynamometer in position 3 for three trials with results as follows:

<u>Setting</u>	<u>Right</u>	<u>Left</u>
1	41 pounds	20 pounds
2	22 pounds	44 pounds
3	25 pounds	44 pounds

COMMENTS: The patient is right hand dominant. The values demonstrated a coefficient of variation greater than the acceptable 15% level suggesting an invalid test score and poor or inconsistent effort on the patient's part.

MULTI-POSITION HANDGRIP STRENGTH TEST: The patient's static handgrip strength was assessed using the handheld dynamometer at five positions with results as follows:

<u>Setting</u>	<u>Right</u>	<u>Left</u>
1	30 pounds	20 pounds
2	32 pounds	40 pounds
3	50 pounds	48 pounds
4	37 pounds	30 pounds
5	29 pounds	25 pounds

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Functional Capacity Evaluation

Name: [REDACTED]
Date: 09/26/2006

COMMENTS: The values demonstrated form the expected Bell shaped curve when these are plotted on a graph suggesting a valid effort.

RAPID EXCHANGE GRIP TEST: The patient was tested in position 3 on a handheld dynamometer for both hands to assess what he could maximally perform and compare it to his one time maximum strength value from above. He performed 8 repetitions to each hand while the evaluator rapidly moved the dynamometer to each hand. He demonstrated a maximum value on the right hand of 47 pounds and 40 pounds on the left hand. This would demonstrate a correlation between static grip strength testing and rapid exchange grip.

MATERIAL HANDLING ACTIVITIES:

(lb)	Occasional	Frequent	Constant
Lifting -- Floor to knuckle preferred	Unable to perform.		
Floor to knuckle leg lift	Unable to perform.		
12 in. To knuckle back lift	Unable to perform.		
Knuckle to shoulder	7.5 lbs.	3.75 lbs.	1.9 lbs.
Shoulder to overhead	7.5 lbs.	3.75 lbs.	1.9 lbs.
Carrying (50 feet)	Unable to perform.		
Pushing (25 feet)	50 lbs.	25 lbs.	12.5 lbs
Pulling (25 feet)	Unable to perform. The patient was unable to walk backwards reporting increasing numbness in the left lower extremity. Test was discontinued.		
Right Unilateral Lift	Unable to perform.		
Right Unilateral Lift	Unable to perform.		

COMMENTS: With the lifting test, the patient was unable to perform a squat or forward bend at the trunk enough to reach the box with the exception of 12 inches to knuckle at which point he was able to reach the box, but unable to lift the minimum weight which was 7.5 pounds due to pain. The patient rated his pain level as a 7 of 10 at the beginning of material handling activities getting as high as 10 of 10 toward the end of material handling. He did request rest breaks and indicated that he needed to sit down feeling lightheaded following the lower level lifts. The patient did make an effort to attempt the lifts; however, was not able to perform.

The data suggests that the patient is capable of performing the above lifting capacities. However, he could have perhaps lifted more than the values listed above, but due to increasing complaints of pain, change in symptoms, and altered body mechanics, we did not proceed further than the particular values noted above.

Projected values regarding the patient's ability to perform the above mentioned tasks on a frequent or constant basis are calculated by taking the approximate 50% of the values in the previous column.

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Functional Capacity Evaluation

Name: [REDACTED]
Date: 09/28/2006

NONMATERIAL HANDLING ACTIVITIES:

	Never	Occasional	Frequent	Constant
Reaching:			X	
Sitting:			X	
Standing: (up to 2 hours at a time)			X	
Walking: (up to 2 hours at a time)			X	
Fingering:				X
Repetitive Bending:	X			
Kneeling:	X			
Static Squat/Crouch:	X			
Repetitive Squat:	X			
Alternate Arm and Leg Movements:			X	
Crawling:	X			
Stair Climbing:			X	

COMMENTS: It should be noted the patient attempted all activities; however, when performing kneeling and squatting the patient was able to get into the position, but required assistance to get out of the position. Sitting was observed to be 15 minutes or less before changing positions or requesting to stand. Standing was again 15 to 20 minutes before requesting to sit. With walking, the patient ambulated very slowly with a limp on the left. With stair climbing, the patient took 2 minutes and 20 seconds to ascend and descend 12 steps which normally takes less than 30 seconds for the average individual. With climbing the steps, he performed a step-to pattern leading with the left lower extremity and requiring significant upper extremity support.

PAIN/FUNCTION QUESTIONNAIRES: In conjunction with the Functional Capacity Evaluation, the patient completed a series of pain/function questionnaires also for the purpose of assessing the presence and degree of inappropriate illness behavior. The patient scored positive in 12 out of 14 categories, which suggests a high level of inappropriate illness behavior from a subjective standpoint.

OBSERVATIONS AND RECOMMENDATIONS

1. The values given appear to be valid and objectively did not present with symptom magnification or inappropriate illness behavior; however, test questionnaire indicated high levels of inappropriate illness behavior.
2. The patient's activities qualify him for a sedentary physical demand level of work based on the U.S. Department of Labor Standards as outlined in the Dictionary of Occupational Titles.
3. Refer the patient back to _____ with the findings of this Functional Capacity Evaluation in order to establish his work capabilities and restrictions therein.

Page 6
Functional Capacity Evaluation

Name: [Redacted]
Date: 09/26/2006

- 4. Based on the objective findings of the Functional Capacity Evaluation it would appear that the patient could not return to work at this time. With observed demonstration of the inability to sit greater than 15 minutes or stand greater than 15 minutes, the patient would be ineffective in an office situation. However, this decision as always is left to the discretion and judgment of the referring physician based on his assessment and the data from the patient's Functional Capacity Evaluation.

This evaluator can only hope that the findings of this evaluation will help aid the physician, the patient, the employer, and the Case Manager in the resolution of this case, or at least provide information to help aid this individual in other employment opportunities for this individual.

If I can be of further assistance, please do not hesitate to contact me. Thank you very much, [Redacted] for the referral of this nice gentleman.

Sincerely,

[Redacted Signature]

NYH/alb
cc: [Redacted]

ENCOUNTER SUMMARY New Work Comp

Patient Name: [REDACTED]
Chart No: [REDACTED]
Phone: [REDACTED]
Age: 35 yrs

Date: 02/07/2007
Doctor of Record: [REDACTED]
Examiner: [REDACTED]

General Notes: [REDACTED]

NAME: [REDACTED]
CHART: [REDACTED]

DATE: 02-07-07

The patient continues to have back and left leg referred pain. The patient was managed i, [REDACTED] I contemplated a fusion and I concur that this was a reasonable option. The patient declined surgery and continues to decline surgery as of this day's date. He has already undergone a FCE. He is therefore by definition at MMI. He can return to work tomorrow with restrictions as outlined per FCE. His Lorect prescription is converted to Lortab 7.5 mg t.i.d. #90, one p.o. l.i.d. p.r.n. with six month refill. Those can be renewed through this office or I would prefer through Southeastern Pain Management. I do not see any reason what so ever to escalate or increase his narcotic requirement and do believe that he should be referred to a pain management group so they can wean him from Lortab to anti-inflammatories over-the-counter alone.

His physical examination demonstrates a positive straight leg raise on the left. He does have the suggestion of anterior column failure on the right. He has no motor or sensory deficits. He has no calf atrophy. He does have some increased hamstring tonicity. No spasm is identified although some tenderness is subjectively reported to palpation at caudal L5-S1 level.

DIAGNOSIS: 722.52.

Return visit here is to be p.r.n. Per Virginia Work Comp standard and review of AMA Guides to the Evaluation of Permanent Impairment, 5th Edition, the patient would have 0% impairment.

Dictated but not edited by: [REDACTED]

CC: C [REDACTED]
[REDACTED]
[REDACTED]

MPL/jaj

DD: 02-07-07 DT: 02-09-07

PSYCHIATRIC REVIEW TECHNIQUE

Name	SSN
NH (If different from above)	SSN

I. MEDICAL SUMMARY

A. Assessment is from: 8/25/05 to Present

B. Medical Disposition(s):

1. No Medically Determinable Impairment
2. Impairment(s) Not Severe
3. Impairment(s) Severe But Not Expected to Last 12 Months
4. Meets Listing (Cite Listing)
5. Equals Listing (Cite Listing)
6. RFC Assessment Necessary
7. Coexisting Nonmental Impairment(s) that Requires Referral to Another Medical Specialty
8. Insufficient Evidence

C. Category(ies) Upon Which the Medical Disposition is Based:

1. 12.02 Organic Mental Disorders
2. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders
3. 12.04 Affective Disorders
4. 12.05 Mental Retardation
5. 12.06 Anxiety-Related Disorders
6. 12.07 Somatoform Disorders
7. 12.08 Personality Disorders
8. 12.09 Substance Addiction Disorders
9. 12.10 Autism and Other Pervasive Developmental Disorders

These findings complete the medical portion of the disability determination.

MC/PC's Signature	Date
	4/4/2007
MC/PC's Printed Name	Code
	38

II.

DOCUMENTATION OF FACTORS THAT EVIDENCE THE DISORDER

A. 12.02 Organic Mental Disorders

Psychological or behavioral abnormalities associated with a dysfunction of the brain... as evidenced by at least one of the following:

1. Disorientation to time and place
2. Memory impairment
3. Perceptual or thinking disturbances
4. Change in personality
5. Disturbance in mood
6. Emotional lability and impairment in impulse control
7. Loss of measured intellectual ability of at least 15 IQ points from premorbid levels or overall impairment index clearly within the severely impaired range on neuropsychological testing, e.g., the Luria-Nebraska, Halstead-Reitan, etc.

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of the impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

B. 12.03 Schizophrenic, Paranoid and Other Psychotic Disorders

Psychotic features and deterioration that are persistent (continuous or intermittent), as evidenced by at least one of the following:

1. Delusions or hallucinations
2. Catatonic or other grossly disorganized behavior
3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:
 - a. Blunt affect, or
 - b. Flat affect, or
 - c. Inappropriate affect
4. Emotional withdrawal and/or isolation

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment.

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

C. 12.04 Affective Disorders

Disturbance of mood, accompanied by a full or partial manic or depressive syndrome, as evidenced by at least one of the following:

1. Depressive syndrome characterized by at least four of the following:

- a. Anhedonia or pervasive loss of interest in almost all activities, or
- b. Appetite disturbance with change in weight, or
- c. Sleep disturbance, or
- d. Psychomotor agitation or retardation, or
- e. Decreased energy, or
- f. Feelings of guilt or worthlessness, or
- g. Difficulty concentrating or thinking, or
- h. Thoughts of suicide, or
- i. Hallucinations, delusions or paranoid thinking

2. Manic syndrome characterized by at least three of the following:

- a. Hyperactivity, or
- b. Pressures of speech, or
- c. Flight of ideas, or
- d. Inflated self-esteem, or
- e. Decreased need for sleep, or
- f. Easy distractibility, or
- g. Involvement in activities that have a high probability of painful consequences which are not recognized, or
- h. Hallucinations, delusions or paranoid thinking

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above

Disorder **TP trtmnt for depresison**

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment (explain in Part IV, Consultant's Notes, if necessary):

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

D. 12.05 Mental Retardation

- Significantly subaverage general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period; i.e., the evidence demonstrates or supports onset of the impairment before age 22, with one of the following:
1. Mental incapacity evidenced by dependence upon others for personal needs (e.g., toileting, eating, dressing, or bathing) and inability to follow instructions such that the use of standardized measures of intellectual functioning is precluded*
 2. A valid verbal, performance, or full scale IQ of 59 or less*
 3. A valid verbal, performance, or full scale IQ of 60 through 70 and a physical or other mental impairment imposing an additional and significant work-related limitation of function*
 4. A valid verbal, performance, or full scale IQ of 60 through 70*

- A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment.

- Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

*NOTE: Items 1, 2, 3, and 4 correspond to listings 12.05A, 12.05B, 12.05C, and 12.05D, respectively.

E. 12.06 Anxiety-Related Disorders

- Anxiety as the predominant disturbance or anxiety experienced in the attempt to master symptoms, as evidenced by at least one of the following:
1. Generalized persistent anxiety accompanied by three of the following:
 - a. Motor tension, or
 - b. Autonomic hyperactivity, or
 - c. Apprehensive expectation, or
 - d. Vigilance and scanning
 2. A persistent irrational fear of a specific object, activity or situation which results in a compelling desire to avoid the dreaded object, activity, or situation
 3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror, and sense of impending doom occurring on the average of at least once a week
 4. Recurrent obsessions or compulsions which are a source of marked distress
 5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder **TP trtmt for anxiety**

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

F. 12.07 Somatoform Disorders

- Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms, as evidenced by at least one of the following:
1. A history of multiple physical symptoms of several years duration beginning before age 30, that have caused the individual to take medicine frequently, see a physician often and alter life patterns significantly
 2. Persistent nonorganic disturbance of one of the following:
 - a. Vision, or
 - b. Speech, or
 - c. Hearing, or
 - d. Use of a limb, or
 - e. Movement and its control (e.g., coordination disturbances, psychogenic seizures, akinesia, dyskinesia), or
 - f. Sensation (e.g., diminished or heightened)
 3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury
- A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

- Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

G. 12.08 Personality Disorders

Inflexible and maladaptive personality traits which cause either significant impairment in social or occupational functioning or subjective distress, as evidenced by at least one of the following:

1. Seclusiveness or autistic thinking
2. Pathologically inappropriate suspiciousness or hostility
3. Oddities of thought, perception, speech and behavior
4. Persistent disturbances of mood or affect
5. Pathological dependence, passivity, or aggressivity
6. Intense and unstable interpersonal relationships and impulsive and damaging behavior

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

H. 12.09 Substance Addiction Disorders

- Behavioral changes or physical changes associated with the regular use of substances that affect the central nervous system.

If present, evaluate under one or more of the most closely applicable listings:

1. Listing 12.02—Organic mental disorders*
2. Listing 12.04—Affective disorders*
3. Listing 12.06—Anxiety-related disorders*
4. Listing 12.08—Personality disorders*
5. Listing 11.14—Peripheral neuropathies*
6. Listing 5.05—Liver damage*
7. Listing 5.04—Gastritis*
8. Listing 5.08—Pancreatitis*
9. Listing 11.02 or 11.03—Seizures*

- A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

- Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

*NOTE: Items 1, 2, 3, 4, 5, 6, 7, 8, and 9 correspond to listings 12.09A, 12.09B, 12.09C, 12.09D, 12.09E, 12.09F, 12.09G, 12.09H, and 12.09L respectively. If items 1, 2, 3, or 4 are checked, only the numbered items in subsections IIA, IIC, IIE, or IIG of the form need be checked. The first block under the disorder heading in those subsections should not be checked, unless the evidence substantiates the presence of the disorder separate from the substance addiction disorder.

I. 12.10 Autistic Disorder and Other Pervasive Developmental Disorders

Qualitative deficits in the development of reciprocal social interaction, in the development of verbal and nonverbal communication skills, and in imaginative activity. Often there is a markedly restricted repertoire of activities and interests, which frequently are stereotyped and repetitive.

1. Autistic disorder, with medically documented findings of all of the following:

a. Qualitative deficits in reciprocal social interaction

b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity

c. Markedly restricted repertoire of activities and interests

2. Other pervasive developmental disorders, with medically documented findings of both of the following:

a. Qualitative deficits in reciprocal social interaction

b. Qualitative deficits in verbal and nonverbal communication and in imaginative activity

A medically determinable impairment is present that does not precisely satisfy the diagnostic criteria above.

Disorder

Pertinent symptoms, signs, and laboratory findings that substantiate the presence of this impairment:

Insufficient evidence to substantiate the presence of the disorder (explain in Part IV, Consultant's Notes).

III.

RATING OF FUNCTIONAL LIMITATIONS

A. "B" Criteria of the Listings

Indicate to what degree the following functional limitations (which are found in paragraph B of listings 12.02-12.04, 12.06-12.08 and 12.10 and paragraph D of 12.05) exist as a result of the individual's mental disorder(s).

NOTE: Item 4 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

Specify the listing(s) (i.e., 12.02 through 12.10) under which the items below are being rated **12.04, 12.06**

FUNCTIONAL LIMITATION	DEGREE OF LIMITATION					
1. Restriction of Activities of Daily Living	None <input type="checkbox"/>	Mild <input checked="" type="checkbox"/>	Moderate <input type="checkbox"/>	Marked* <input type="checkbox"/>	Extreme* <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
2. Difficulties in Maintaining Social Functioning	None <input checked="" type="checkbox"/>	Mild <input type="checkbox"/>	Moderate <input type="checkbox"/>	Marked* <input type="checkbox"/>	Extreme* <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
3. Difficulties in Maintaining Concentration, Persistence, or Pace	None <input type="checkbox"/>	Mild <input checked="" type="checkbox"/>	Moderate <input type="checkbox"/>	Marked* <input type="checkbox"/>	Extreme* <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>
4. Repeated Episodes of Decompensation, Each of Extended Duration	None <input checked="" type="checkbox"/>	One or Two <input type="checkbox"/>		Three* <input type="checkbox"/>	Four* or More <input type="checkbox"/>	Insufficient Evidence <input type="checkbox"/>

*Degree of limitation that satisfies the functional criterion.

B. "C" Criteria of the Listings

1. Complete this section if 12.02 (Organic Mental), 12.03 (Schizophrenic, etc.), or 12.04 (Affective) applies and the requirements in paragraph B of the appropriate listing are not satisfied.

NOTE: Item 1 below is more than a measure of frequency and duration. See 12.00C4 and also read carefully the instructions for this section.

- Medically documented history of a chronic organic mental (12.02), schizophrenic, etc. (12.03), or affective (12.04) disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do any basic work activity, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:
1. Repeated episodes of decompensation, each of extended duration
 2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate
 3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement with an indication of continued need for such an arrangement
- Evidence does not establish the presence of the "C" criteria
- Insufficient evidence to establish the presence of the "C" criteria (explain in Part IV, Consultant's Notes).
-

2. Complete this section if 12.06 (Anxiety-Related) applies and the requirements in paragraph B of listing 12.06 are not satisfied.

- Complete** inability to function independently outside the area of one's home
- Evidence does not establish the presence of the "C" criteria
- Insufficient evidence to establish the presence of the "C" criterion (explain in Part IV, Consultant's Notes).
-

IV.

CONSULTANT'S NOTES

35 YOM ALLEGES nerve problems.

9/27/05 reports somewhat anxious and depressed due to no improvement of his back symptoms. DX: anxiety. TX: start klonopin

3/9/06 reports he is continued on Klonopin. Notes full orientation, NAD

5/4/06 reports he does not be in any acute physiologic distress and is not overtly depressed.

ADLs: performs personal care with assistance, wife does household chores and cooking, does not drive due to his medications, handles finances, enjoys talking to family. he reports problems with concentration. reports using a cane for ambulation.

No evidence of formal mental health treatment IP psych admissions.

Suggest the claimant has a non-severe mental impairment.

Based on the evidence of record, the claimant's statements are found to be partially credible.

RECON INFO:

Worsening condition: Insomnia worse, anxiety problems.

New conditions: Trouble concentrating, remembering and focusing.

PRTF: 7/06: Easily responsive to stimulation. Oriented X 4. Well groomed, cooperative and has a normal ability to communicate. 12/06: Does not appear to be depressed. Noted to be taking Klonopin.

ADL: Reports no significant changes in pain questionnaire answers and ADL's from previous decision.

Section 223 and section 1633 of the Social Security Act authorize the information requested on this form. The information provided will be used in making a decision on this claim. Completion of this form is mandatory in disability claims involving mental impairments. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and another agency.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information about you may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

PAPERWORK REDUCTION ACT STATEMENT: The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB control number. We estimate that it will take you about 15 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form.

Suggest no changes to original decision.

Section 223 and section 1633 of the Social Security Act authorize the information requested on this form. The information provided will be used in making a decision on this claim. Completion of this form is mandatory in disability claims involving mental impairments. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and another agency.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information about you may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

PAPERWORK REDUCTION ACT STATEMENT: The Paperwork Reduction Act of 1995 requires us to notify you that this information collection is in accordance with the clearance requirements of section 3507 of the Paperwork Reduction Act of 1995. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a valid OMB control number. We estimate that it will take you about 15 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form.

REQUEST FOR MEDICAL ADVICE	Date Referred 04/02/2007	Social Security Number [REDACTED]
---------------------------------------	-----------------------------	--------------------------------------

To: Review by specialist(s) in

PSYCHOLOGY

From: _____

Examiner Name _____ Examiner Telephone Number [REDACTED]

Reviewer Name _____ Reviewer Telephone Number () -

Claimant Name [REDACTED] Sex M F Birth Date (mo, da, yr) [REDACTED] Application Date (mo, da, yr) 05/02/2006

Type of Claim DIB DAC DWB SSI ADULT SSI CHILD BLINDNESS

Case History INITIAL RECON ALJ DHO TERI

Congressional or Controlled Inquiry CDR Involved
 Reopening of Prior Decision CPD Date _____
 Prior ALJ, AC, Court Decision Cess. Date _____
 Prior Disability Established _____ to _____ Age 18 Redetermination
 Other

Date Last Insured or Prescribed Period _____ Alleged Onset 08/25/2005

Please Review the Medical Evidence and Respond to the following:

Please provide an assessment of the individual's current residual functional capacities. Physical Mental

SSI Childhood - Please prepare SSA-538

Please provide an assessment of whether there has been medical improvement (MI) in the individual's impairment(s) since CPD.
 If MI has occurred, a decision is needed as to whether MI is related to the individual's ability to work.

CPD was based on meeting/equaling listing _____

RFC Comparison Needed.

Specific problems or questions:

Please see form in shared drive. Suggest no changes to original decision.

Continued on Attached Sheet

PHYSICAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

CLAIMANT: [REDACTED]		SOCIAL SECURITY NUMBER: [REDACTED]	
NUMBERHOLDER (IF CDB CLAIM):			
PRIMARY DIAGNOSIS: DDD	RFC ASSESSMENT IS FOR: <input checked="" type="checkbox"/> CURRENT EVALUATION <input type="checkbox"/> DATE LAST INSURED: <input type="checkbox"/> DATE 12 MONTHS AFTER ONSET: <input type="checkbox"/> OTHER (SPECIFY):		
SECONDARY DIAGNOSIS:			
OTHER ALLEGED IMPAIRMENTS:			

PRIVACY ACT/PAPERWORK ACT NOTICE: The information requested on this form is authorized by Section 223 and Section 1633 of the Social Security Act. The information provided will be used in making a decision on this claim. Failure to complete this form may result in a delay in processing this claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with federal laws requiring the exchange of information between Social Security and other agencies.

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TIME IT TAKES TO COMPLETE THIS FORM: We estimate that it will take you about 20 minutes to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form. If you have comments or suggestions on this estimate, write Social Security Administration ATTN: Reports Clearance Officer, 1-A-21 Operations Building, Baltimore, MD 21235-0001. Send only comments relating to our "time it takes" estimate to the office listed above. All requests for Social Security cards and other claims-related information should be sent to your local Social Security office, whose address is listed under Social Security Administration in the U.S. Government section of your telephone directory.

I. LIMITATIONS:

For Each Section A - F

⇒ Base your conclusions on **all evidence** in file (clinical and laboratory findings; symptoms; observations; lay evidence; reports of daily activities; etc.).

⇒ Check the blocks which reflect your **reasoned judgment**.

⇒ Describe how the **evidence substantiates your conclusions**. (Cite specific clinical and laboratory findings, observations, lay evidence, etc.).

⇒ Ensure that you have requested:

- Appropriate treating and examining source statements regarding individual's capacities (DI 22505.000ff. and DI 22510.000ff.) and that you have given **appropriate weight to treating source conclusions**. (see section III)
- Considered and responded to **any alleged limitations imposed by symptoms** (pain, fatigue, etc.) attributable, in your judgment, to be medically determinable impairment. Discuss your assessment of symptom-related limitations in the explanation for your conclusions in A-F below. (See also section II.)
- Responded to all allegations of physical limitations or factors which can cause physical limitations.

⇒ **Frequently** means occurring one-third to two-thirds of an 8-hour workday (cumulative, not continuous).

Occasionally means occurring from very little up to one-third of an 8-hour work day (cumulative, not continuous).

A. EXERTIONAL LIMITATIONS

None established. (Proceed to section B.)

1. **Occasionally lift and/or carry (including upward pulling)**
(maximum) -- when less than one-third of the time or less than ten pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 20 pounds
 50 pounds
 100 pounds or more

2. **Frequently lift and/or carry (including upward pulling)**
(maximum) -- when less than two-thirds of the time or less than ten pounds, explain the amount (time/pounds) in item 6.

- less than 10 pounds
 10 pounds
 25 pounds
 50 pounds or more

3. **Stand and/or walk (with normal breaks) for a total of --**

- less than 2 hours in an 8-hour workday
 at least 2 hours in an 8-hour workday 2-3 hours
 about 6 hours in an 8-hour workday
 medically required hand-held assistive device is necessary for ambulation

4. **Sit (with normal breaks) for a total of --**

- less than about 6 hours in an 8-hour workday
 about 6 hours in an 8-hour workday
 must periodically alternate sitting and standing to relieve pain and discomfort. (If checked, explain in 6.)

5. **Push and/or pull (including operation of hand/foot controls) --**

- unlimited, other than shown for lift and/or carry
 limited in **upper** extremities (describe nature and degree)
 limited in **lower** extremities (describe nature and degree)

6. **Explain how and why the evidence supports your conclusions in items 1 through 5.**
Cite the specific facts upon which your conclusions are based.

See Attached

B. POSTURAL LIMITATIONS

None established. (Proceed to section C.)

	The claimant is able to frequently use ramps and climb stairs. The claimant should never climb ladders, ropes or scaffolds.	Frequently	Occasionally	Never
1. Climbing - ramp/stairs - ladder/rope/scaffolds		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Balancing		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Stooping		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Kneeling		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Crouching		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Crawling		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. When less than two-thirds of the time for frequently or less than one-third of the time for occasionally, fully describe and explain. Also explain how and why evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based.				

See Attached

C. MANIPULATIVE LIMITATIONS

None established. (Proceed to section D.)

	LIMITED	UNLIMITED
1. Reaching all directions (including overhead)	<input type="checkbox"/>	<input type="checkbox"/>
2. Handling (gross manipulation)	<input type="checkbox"/>	<input type="checkbox"/>
3. Fingering (fine manipulation)	<input type="checkbox"/>	<input type="checkbox"/>
4. Feeling (skin receptors)	<input type="checkbox"/>	<input type="checkbox"/>
5. Describe how the activities checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in item 1 through 4. Cite specific facts upon which your conclusion is based.		

See Attached

D. VISUAL LIMITATIONS

None established. (Proceed to section E.)

	LIMITED	UNLIMITED
1. Near acuity	<input type="checkbox"/>	<input type="checkbox"/>
2. Far acuity	<input type="checkbox"/>	<input type="checkbox"/>
3. Depth perception	<input type="checkbox"/>	<input type="checkbox"/>
4. Accommodation	<input type="checkbox"/>	<input type="checkbox"/>
5. Color vision	<input type="checkbox"/>	<input type="checkbox"/>
6. Field of vision	<input type="checkbox"/>	<input type="checkbox"/>
7. Describe how faculties checked "limited" are impaired. Also explain how and why evidence supports your conclusions in item 1 through 6. Cite specific facts upon which your conclusions are based.		

See Attached

E. COMMUNICATIVE LIMITATIONS

None established. (Proceed to section F.)

- | | LIMITED | UNLIMITED |
|--|--------------------------|--------------------------|
| 1. Hearing | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Speaking | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Describe how the faculties checked in "limited" are impaired. Also, explain how and why the evidence supports your conclusions in items 1 and 2. Cite the specific facts upon which your conclusions are based. | | |

See Attached

F. ENVIRONMENTAL LIMITATIONS

None established. (Proceed to section II.)

- | | UNLIMITED | AVOID
CONCENTRATED
EXPOSURE | AVOID EVEN
MODERATE
EXPOSURE | AVOID ALL
EXPOSURE |
|---|-------------------------------------|--|---|-------------------------------------|
| 1. Extreme cold | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Extreme heat | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Wetness | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Humidity | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Noise | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Vibration | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Fumes, odors, dusts,
gases, poor ventilation, etc. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Hazards (machinery,
heights, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. Describe how these environmental factors impair activities and identify hazards to be avoided. Also, explain how and why evidence supports your conclusions in items 1 through 8. Cite the specific facts upon which your conclusions are based. | | | | |

See Attached

II. SYMPTOMS

For symptoms alleged by the claimant to produce physical limitations, and for which the following have not previously been addressed in section I, discuss whether:

- A. The symptom(s) is attributable, in your judgment, to a medically determinable impairment
- B. The severity or duration of the symptom(s), is in your judgment, is disproportionate to the expected severity or expected duration on the basis of the claimant's medically determinable impairment(s).
- C. The severity of the symptom(s) and it's alleged effect on function is consistent, in your judgment, with the total medical and non-medical evidence, including statements by the claimant and others, observations regarding activities of daily living, and alterations of usual behavior or habits.

See Attached

III. TREATING OR EXAMINING SOURCE STATEMENT(S)

A. Is treating or examining source statement(s) regarding the claimant's physical capacities in file?

Yes

No (includes situations which there was no source or when the source(s) did not provide a statement regarding the claimant's physical capacities.)


B. If yes, are there treating/examining source conclusions about the claimant's limitations or restrictions which are significantly different from your findings?

Yes

No

C. If yes, explain why those conclusions are not supported by the evidence file. (Cite the source's name and the statement date)

See Attached

MEDICAL CONSULTANT'S SIGNATURE 	MEDICAL CONSULTANT'S CODE 32	DATE 4/2/07
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RFC Continuation

Sections Being Modified

SSA-4734-UA – Physical RFC

- Section I. Limitations
 Section II. Symptoms
 Section III. Medical Source Statements

SSA-4734-BK-Sup – Mental RFC

- Section III. Functional Capacity Assessment

SSA-2506-BK – PRTF

- Psychiatric Review Technique Form

SSA-538-F6 – Childhood Disability Evaluation Form

- Section III. Explanation of Findings

These findings complete the medical portion of the disability determination.

The claimant alleges disability due to severe back and leg pain, nerve problems, numbness, insomnia due to pain, and bulging disc. He reports his condition. He alleges that these symptoms result in limitations in standing, walking, lifting, carrying and performing at a consistent pace. The medical evidence establishes a medically determinable impairment of DDD.

09/19/05: MRI showed right posterolateral L4-5 disk bulge w/o herniation or mass effect; asymmetric lumbosacroiliac articulation; minimal levoscoliosis.

12/14/05: TP noted claimant c/o continued bilateral LE pain to his thighs despite ESI on 11/17/05. 2nd ESI administered.

02/02/06: CT showed minimal DDD at L4-5 and L5-S1 w/o evidence of nerve root compression. Normal bone scan study.

03/14/06: lumbar discogram showed abnormal pain and left-sided leg pain at L5/S1; right-sided facet arthrogram produced back pain and bilateal leg pain; positive concordant back pain at S1/S2 with a posterior teat within the disc. TP assessed that the caudal lumbosacral disc junction was the major problem.

03/27/06: TP noted no acute physiological distress, back pain with walking and getting up, 217#, positive SLR on the left at 70 degrees. TP noted probable construct and dynamic stabilization of the symptomatic disc, fusion of the symptomatic disc with a rudimentary disc, and a facet joint fusion.

5/4/06 f/u - clmt wishes to proceed with pain mgmt before having surgery. PE: 217 lbs, positive SLR on left, moves about with an antalgic gait. DX: multi-level DDD, accelerated by his work injury.

ADLs: performs personal care with assistance, wife does household chores and cooking, does not drive due to his medications, handles finances, enjoys talking to family. he reports problems with concentration. reports using a cane for ambulation.

In assessing the credibility of the claimant's statements regarding symptoms and their effects on function, his medical history, his activities of daily living, the type of treatment he received, his response to treatment, observations and the consistency of the evidence were considered.

The claimant has described daily activities that are significantly limited. This is consistent with the limitations indicated by other evidence in this case. He requires an assistive device to ambulate.

Based on the evidence of record, the claimant's statements are found to be partially credible.

The medical source opinion of the treating source, _____ in the report dated 5/4/06, indicates that the claimant is unable to work. This is an issue reserved to the Commissioner. However, consideration was given to this opinion.

pec. Code: 32 4/2/07

Signature

RECON INFO:

Worsening: back & leg, insomnia and anxiety.

New conditions: trouble concentrating, focusing & remembering.

7/06: Gait normal. Sitting on R buttock with L leg in extension. L-Spine with tenderness off midline bilaterally in a symmetrical distribution diffusely severe. Muscle spasm bilaterally in a symmetrical distribution. Active ROM. Flexion restricted LBP present bilaterally- severe. Extension restricted to 1 degrees LBP present bilaterally- severe. Passive ROM. Flexion restricted, extension restricted. Neuromuscular exam normal. Sacral spine with moderate tenderness in midline. Legs with normal inspection, ROM, muscle strength, tone and stability. CN 1-12 intact & symmetrical. Motor & sensory exams WNL. DTR's 2+ throughout. 8/06: Underwent injections for back pain. 9/06: FCE: Noted to ambulate with a stooped somewhat flexed posture at the waist and the hips with a limp on the L. Does not need an assistive device. Reflexes 2+ in bilaterally LE. Slight decrease in sensation in the L foot along the bottom however no specific dermatome. FCE limits claimant to sedentary physical demand level of work, but is unable to sit greater than 15 minutes or stand greater than 15 minutes. The P.T rep further notes that the claimant would be ineffective in an office situation. 10/06: Positive SLR on L. Decreased sensation in L leg below the knee. Otherwise has 5/5 strength in LE's. Gait is markedly antalgic and ambulates very slowly. Sits with all weight on R hip with L leg extended out in front. 12/06: Antalgic gait favoring L leg. Appears to have good strength in the LE but this is compromised because of L knee pain & back pain. DX: Multilevel lumbar DDD with deterioration. Several abnormal discs which would probably benefit from an interbody fusion as well as Dynesys instrumentation. 2/07: C/O back & L leg pain. Recommended a fusion. Patient declines surgery. Already undergone an FCE and therefore by definition is at MMI. Exam: Positive SLR on L. Suggestion of anterior column failure on R. No motor or sensory deficits. No calf atrophy. Some increased hamstring tonicity. No spasm identified although some tenderness is subjectively reported to palpation at caudal L5-S1 level.

Per _____ in the report dated 2/7/07 indicates that the claimant is able to return to work with restrictions. This is an issue reserved to the Commission and is given appropriate weight and considered.

Per _____ in the report dated 12/7/06 indicates that the claimant is unable to work. This is an issue reserved to the Commissioner and is given appropriate weight and considered.

ADL: Reports no significant changes in pain questionnaire answers and ADL's from previous decision.

Suggest no changes to original decision.

**SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review**

DECISION

IN THE CASE OF

CLAIM FOR

[REDACTED]
(Claimant)

Period of Disability and Disability Insurance
Benefits

[REDACTED]
(Wage Earner)

[REDACTED]
(Social Security Number)

INTRODUCTION

The claimant filed a Title II application for Disability Insurance Benefits on May 2, 2006 (protective filing date), alleging disability since August 25, 2005. After initial and reconsideration denials, he requested a hearing. The hearing was held on January 25, 2008 in Bluefield, West Virginia, with the undersigned Administrative Law Judge presiding by videoteleconference. The claimant appeared and testified, represented by [REDACTED] Attorney at Law. Also testifying was [REDACTED] vocational expert.

ISSUES

The general issue is whether the claimant is entitled to a period of disability and Disability Insurance Benefits under sections 216(i) and 223 of the Social Security Act. The specific issue is whether he is under a disability, which is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

EVALUATION OF THE EVIDENCE

The record reflects that the claimant met the disability insured status requirements of the Social Security Act on the alleged onset date, and will continue to do so at least through December 31, 2010 (Exhibit 3D).

[REDACTED]

At the hearing, the claimant testified that he has a general equivalency diploma and past relevant work as a welder. He said he has not performed any gainful activity since August 2005, and claimed disability due to back pain that precludes sitting or standing more than 15 minutes at a time. Claimant testified that pain has persisted despite epidural steroid injections, use of a back brace and TENS unit, and treatment at a pain clinic, and reported that he does very little during the course of the day. The vocational expert testified that claimant's past relevant work as a [REDACTED] a skilled job performed at the heavy level of exertion, provides no skills that are transferable to sedentary work.

The medical evidence reveals that the claimant saw [REDACTED] for orthopedic evaluation on September 6, 2005 and related lower back pain that had persisted since an injury at work on August 25, 2005. MRI of the lumbosacral spine on September 19, 2005 showed right posterolateral disc bulge at L4-5 (Exhibit 1F). Claimant had a series of epidural steroid injections (Exhibit 3F), but records from the treating physician indicate that symptomatology persisted (Exhibit 4F). Claimant was advised to consider surgical intervention, but he elected to pursue treatment from a pain management center (Exhibit 16F). Results of Functional Capacity Evaluation on September 26, 2006, which showed claimant to be incapable of sitting or standing more than 15 minutes at a time, indicate that he is incapable of even sedentary work activity (Exhibits 11F and 12F). Subsequent records from [REDACTED] document radiculopathy in the lower extremities with positive straight leg raising bilaterally, and [REDACTED] as indicated that he concurs with recommendation for spinal fusion (Exhibits 19F, 22F, and 27F).

The record reflects that the claimant was [REDACTED] years old on the alleged onset date and has a general equivalency diploma. There is no evidence to suggest that he has performed any gainful activity since August 25, 2005. The claimant has a back disorder, which is "severe" as that term is defined in the Regulations. Though severe, it does not meet or medically equal the requirements of any impairment listed in 20 CFR Part 404, Appendix 1 to Subpart P.

The claimant's description of his limitations is consistent with the medical evidence of record, and his testimony is credible. After consideration of all evidence of record, the undersigned concludes that back disorder can reasonably be expected to produce chronic pain and physical limitations that would preclude performance of even sedentary work on a regular and continuing basis. In reaching this conclusion, the undersigned has reviewed the opinions of the state medical consultants pursuant to 20 CFR 404.1527 and Social Security Ruling 96-6p. Claimant was denied initially and upon reconsideration based on a finding that he is able to perform work at the sedentary level of exertion that does not involve exposure to hazards (Exhibits 8F and 17F). Because these opinions were rendered by non-examining physicians and are not supported by the objective medical evidence of record, they are entitled to very little weight. With due consideration of Social Security Ruling 96-9p, the undersigned concludes that the occupational base is eroded to the point that there do not exist a significant number of jobs which the claimant is capable of performing. Accordingly, the claimant is under a "disability" as defined by the Social Security Act and Regulations.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

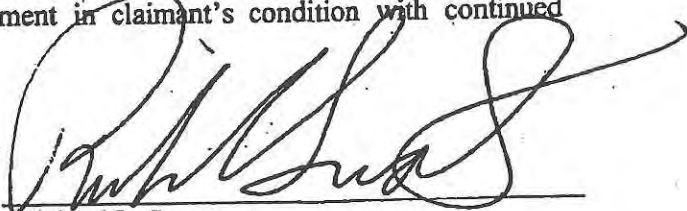
1. The claimant met the disability insured status requirements of the Social Security Act on the alleged onset date, and will continue to do so at least through December 31, 2010.
2. The claimant has not performed substantial gainful activity since August 25, 2005.
3. The claimant has a back disorder, which is "severe" as that term is defined in the Regulations.
4. The claimant's impairment does not meet or medically equal the requirements of any impairment listed in 20 CFR Part 404, Appendix 1 to Subpart P.
5. The claimant's assertions concerning his ability to work are credible.
6. Limitations imposed by back disorder preclude performance of even sedentary work on a regular and continuing basis.
7. The claimant is unable to perform past relevant work as a welder.
8. The claimant was [REDACTED] years old on the alleged onset date, and accordingly is a younger individual.
9. The claimant has a general equivalency diploma.
10. The claimant has not acquired any skills from past relevant work that are transferable to other jobs at the sedentary level of exertion.
11. Considering the claimant's limitations, he cannot make an adjustment to any work that exists in significant numbers in the national economy; a finding of "disabled" is therefore reached in accordance with the provisions of Social Security Ruling 96-9p.
12. The claimant has been under a disability, as defined in the Social Security Act and Regulations, since August 25, 2005.

DECISION

It is the decision of the Administrative Law Judge that, based on the application protectively filed on May 2, 2006, the claimant is entitled to a period of disability commencing August 25, 2005, and to Disability Insurance Benefits under sections 216(i) and 223, respectively, of the Social Security Act.

Any benefits to which claimant may be entitled are subject to offset to reflect receipt of Workers' Compensation payments.

The undersigned recommends that a medical review be conducted within one year in order to determine if there has been medical improvement in claimant's condition with continued treatment.



Richard L. Swartz
Administrative Law Judge

4-24-08

Date

(The following is a transcript in the video hearing held before Richard L. Swartz, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on January 25, 2008, at Bluefield, West Virginia, in the case of [REDACTED] Social Security Number [REDACTED]. The Claimant appeared in person and was represented by [REDACTED] Attorney. Also present was [REDACTED], Vocational Expert.)

(The hearing commenced at 2:16 p.m. on January 25, 2008.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: We're ready to proceed with the hearing in the case of Claimant. Is your name [REDACTED]

CLMT: Yes, sir.

ALJ: [REDACTED] I have your Social Security Number as [REDACTED]

CLMT: Yes, sir.

ALJ: Is your mailing address, [REDACTED]

CLMT: Yes, sir.

ALJ: This is a claim for Disability Benefits. I'm Judge Richard L. Swartz with the Office of Disability. You're being represented today by your attorney, [REDACTED] (Phonetic)?

CLMT: Yes, sir.

ALJ: Counsel, we have an exhibit file in this gentleman's claim with the materials you submitted most recently that have been added to the file, and the last exhibit now is number 28, Section F. Have you had an opportunity to review that file?

ATTY: Yes, sir.

ALJ: Do you have any objections to including any of those materials?

ATTY: No, sir.

ALJ: We show the exhibit file that is dated today part of

today's record. I also, have [REDACTED], who is present here in the room with me, although he is not on the screen right now, but he is here to testify as a Vocational Expert. Have you discussed that with [REDACTED]

ATTY: Yes, sir.

ALJ: [REDACTED], including you, that makes two of you here to testify. Counsel, would you like to proceed?

(The Claimant, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ATTORNEY:

Q [REDACTED] one of the things I wanted to ask you about is your last job that you had. Where were you working at? Who was you working for?

A [REDACTED].

Q Okay. What was you doing for them?

A I was a [REDACTED]

Q Okay. It looks like the record shows you had an accident while you was working for them. Is that right?

A Yes, sir.

Q If you would, briefly explain to the judge what happened to you. What, what were you doing and how were you hurt?

A Me and another colleague was lifting a miner jack out of the wash tank, and I just felt something snap in my back and --

Q How much does this jack weigh approximately?

A I, it, it was maybe 150 pounds. Something like that it was.

Q Okay. All right.

A Who'd you go first to get treatment with over this problem?

A I went to -- first to [REDACTED]

Q Was that [REDACTED] (Phonetic) or --

A It was the emergency -- [REDACTED] (Phonetic), it was.

Q Oh, okay, okay.

A I had to see him at the emergency room, and then he told me to see my family doctor the next day, and then --

Q Which was who?

A [REDACTED]

Q Okay. I figured we'd get to him. Okay. Now a good part of the, your medical records covers, looks like it was [REDACTED] (Phonetic) and [REDACTED] (Phonetic). What kind of doctor is [REDACTED]?

A He's a neurosurgeon.

Q Okay. Back specialist?

A Yes, sir.

Q Okay. What, what brought you, what brought you to [REDACTED] ? Did -- were you referred there by one of your other doctors?

A Yes. [REDACTED].

Q Okay.

A I seen him -- [REDACTED] referred me to [REDACTED], and Dr. [REDACTED], he was a orthopedic doctor, I guess, so he referred me to a neurosurgeon, which was [REDACTED]

Q Okay. What did -- what did Dr. -- well, are you still treating with him?

A [REDACTED] ?

Q Right.

A No, he left, and [REDACTED] was his partner, so [REDACTED] took

over his patients.

Q Okay. We'll go back to for just a minute. What did he do for you? What kind of treatment did he give, give you?

A Well, he give me epidural shots, Facet injection shots --

Q Did he run any tests on you?

A MRI, also FCE test or --

Q Right.

A I had to have that and --

Q One of the things I wanted to mention to you, it looks like back in February of '06, February 9th of '06, he was speaking about installing some hardware in your lower spine and also doing fusion surgery as well. Did he discuss that with you?

A Yes, sir, he did.

Q Okay. What was the conversation? I mean, did, did, did he say that was the only alternative you had -- that he was looking at or -- how did that --

A Well, it was, you know, he said, you know, either that or just learn to live with it, you know? That was basically, basically all he could do, you know, but --

Q Now you'd mentioned the FCE. Did you make it through the FCE okay?

A Well, I had a lot of trouble out of it, but, you know, they, you know, determined, you know, I couldn't stand, you know, over 15 minutes, whatever, couldn't sit, you know --

Q Well, one of the things they put in there was sit for around 15 minutes is, it's kind of painful for you.

A Yeah.

Q Are those limitations, and this was, I believe, September of '06, September 26, '06. Are those limitations still accurate? Or are they or are they not accurate as we sit here today?

A Yeah, yeah, they're accurate.

Q Okay.

A Yeah, they're still the same. I can't hardly sit or stand.

Q Well, as far -- and you mentioned going to _____ next. What if anything has _____ been able to do for you?

A Basically, he, he tried to, you know, he give me some of the epidural blocks, you know, and of course they didn't, they didn't faze it none. That's you know, other than medications, that's all. That's all of it.

Q And he, _____ had mentioned in July 18th of last year 2007, that, that you've been wearing a back brace. Do you use the back brace now?

A Yes, sir, yes. Yeah, he prescribed me a back brace. Yes, sir.

Q Okay.

A And a TENS unit, too, also.

Q A TENS unit as well.

A The pain clinic is the one that prescribed me the TENS unit.

Q Okay.

A So.

Q What type of -- well, who's the doctor you see at the pain clinic now?

A Well, _____ (Phonetic).

Q _____

A Yes, sir.

Q Okay. What have they been doing for you down at the pain clinic?

A They, the TENS unit, you know. Basically, just -- see, now they tried to, they give me some of those epidural blocks, too.

Q Epidural?

A Yes. They was like maybe cortisone, or something. But I had, the last one I had, the cortisone, I _____ (Phonetic) said it -- you know, interacted with the nerve roots where they were irritated so bad.

Q Right.

A And I had a lot of trouble of it, so wouldn't give me no more of them.

Q Okay.

A So that's basically it, other than medication and TENS unit; that's basically all what they're doing now.

Q Okay. What, it looks like you're being treated some with _____ (Phonetic). Is she a counselor?

A Yes, sir.

Q What, what are some of the things she's been treating you for?

A Well, depression, anxiety, you know --

Q Is this stuff due to the, due to the, the, the accident? I mean, were you doing okay beforehand? Before this accident?

A Well, yeah. I mean, I just was getting really depressed, you know, where I can't do nothing.

Q Okay.

A Yes, sir.

Q One of the things -- well, actually, some of the things she had mentioned in one of her notes that I -- that you're nowadays easily aggravated, irritated. What, explain that for us.

A I just, seems like, you know, everything bothers me, you know. Anything loud, you know, TV, anything like that, or even my young-un, you know?

Q How old is your --

A He's eight.

Q Okay, so --

A Sometimes, you know, he, like, he runs through the house, a-hollering, it just goes all over me.

Q Okay. Are you living in any way as far as interacting with your son?

A Well, I, you know, I can't do none of the things I used to do with him, you know. I, I still spend time with him, you know, doing what I can with him, but it's not like I, you know, do very much with him.

Q Okay. How, you know, overall, generally speaking, with the difficulties you've been having, explain for the judge if you would, how you function throughout the day, after, you know, starting when you get up in the morning. I guess first place would be how do you, do you sleep okay at night?

A No, sir, I don't. Sometimes you know I wake up during the night. You know, I hadn't been asleep, maybe, two hours or so, and --

Q Do you take medications before you go to bed?

A Yes, sir, and sometimes, you know, when it wears off, like, a couple hours, you know, I have to get up because of my back's real stiff and hurting my legs and stuff, and I have to get up, move around, take more medicine before I, you know, get anymore relief again.

Q Are you sleeping in a regular bed?

A No, sir. Most time I sleep on a sectional couch.

Q Okay.

A So regular bed, it seem like it, almost soft or something, I don't know what it is. Seem like I'm cut in two from my waist down when I try to sleep in a bed. I sleep on a hard couch.

Q When you do get up and start moving around, what do you do throughout the day?

A Well, you know, different days bring along different things, you know. According to how I feel, you know, sometimes I, you know, I might, if it's pretty out, I might get out and walk around the, you know, the place -- or enjoy that or, you know, usually I, I end up having to go on back into the house.

Q During the summertime, do you do any outside working, around the home, for example, mowing the grass?

A No.

Q Who does that?

A I, usually, my brother-in-law or my nephew will.

Q Okay. How about house work? For example, doing some dishes or vacuum cleaning, things like that, dusting? Do you help with

housework?

A Well, my back, if I, if I feel all right, some days I do, you know. I mean, just do what I can, you know. I, if I start hurting I, you know, I have to sit down and quit, or -- but yes.

Q Are you married?

A Yeah.

Q Does your wife work outside the home?

A No, not now she don't.

Q Okay. Okay. And I thought I'd mention, too, Judge, [REDACTED] is presently receiving Workers' Comp. benefits.

ALJ: Okay.

Q How is your energy level during the day?

A Well, I just, I don't, I don't have a lot of energy, it don't seem like, you know. But, you know, it seem like I have good days and bad days, you know?

Q Sure.

A It just, you know, fluctuates, you know?

Q Sure. Are there any days during the week that you need to lay down and rest?

A Oh, yeah. Yeah, I, some days, you know, I might take a nap for a hour or something, you know, it, you know, I do that if, like if I don't sleep good at the night or something, it hits me during the day. If I can get comfortable, I'll take a nap, you know?

Q How many days out of the week, approximately, would that be?

A Well, now, most of the time, at least four or better, you know. Some, you know, it's just different weeks, you know?

Q Okay. How about -- do you have a driver's license?

A Yes, sir.

Q Okay. Do you drive now?

A No more than I have to. I mean, I might take my son to the bus stop or --

Q How far is that away from you home?

A The bus stop ain't -- it might be a quarter of a mile.

Q Okay.

A Or I might go to a convenience store, you know, which is three or four miles down the road, you know.

Q Okay. How far was it from your home up to here? How long did it take you to get to this hearing office?

A Let's see, it took us about a hour, twenty minutes, I guess.

Q Okay. Who's us?

A Me and my wife.

Q Okay. Did you drive, or did she drive?

A She drove.

Q Okay. Does it hurt you to drive a distance like this?

A Oh, lord, yes. Yeah, I have, it hurts me to ride, yeah.

Q Okay. How long did you work for the, for the [REDACTED] where you hurt, hurt?

A Let's see, I just worked for them right around two years. Best to my recollect.

Q Okay. Who was you with, if anyone, before them?

A I, before them, I was working in Bristol, Tennessee, for [REDACTED]

[REDACTED]

Q Okay, what was you doing?

A Let's see, welded, fabricated big trucks.

Q Okay. How long was you working with them.

A I worked for him for two-and-a-half years.

Q Okay. Where was you at before that?

A Before that I was with [REDACTED] in Glade Springs.

Q What did you do there?

A I [REDACTED] stuff, yeah.

Q Approximately how long did you work with them?

A I worked with them about 12, 13 years.

Q Okay. Okay. Enjoyed your work?

A Oh, yeah, yeah. I was good at my work.

Q Okay. Judge, I think that's all I have for right now.

ALJ: Okay.

BY THE ADMINISTRATIVE LAW JUDGE:

Q There's one of your doctors in the file said you were -- they were going to send you to a [REDACTED]. Did you ever see [REDACTED]

A Yes, sir. He's at the pain clinic where [REDACTED] is at.

Q Oh, okay.

A Sometimes I see [REDACTED], sometimes [REDACTED], yeah.

Q Are you on any pain medicine now?

A Yes, sir.

Q What, what do they give you?

A Lortab, Lortab 10, or I think that's what they're called.

Q How often do you take them?

A Every four to six hours, as needed.

Q You actually do that? I mean, how often do you actually take them?

A Well, if it needs, you know -- I usually try not to take over four a day at least, you know? In a 24-hour period, you know?

Q Okay.

A But sometimes, now, if I, I may have to, you know. Just different days, if I don't need them, I don't, I try not to take them, but --

Q Do you have any dependents? Other than your wife?

A I have a eight-year-old son, yeah.

Q Is your son healthy?

A Basically.

Q Okay. He's not, you know, severely handicapped or anything like that?

A Oh, no. Uh-uh. No.

ATTY: Didn't he have some issues early on?

A He was born with, he was born with problems, but, you know, he's, he's doing good now.

Q How about your wife? Is she healthy?

A Yeah, she's, she's pretty healthy. Yep. I also, on the medication, I take Klonopin for depression and anxiety.

ALJ: Yeah. Okay. That's all the questions I have. Counsel, do you have anything else?

ATTY: No, sir.

BY THE ADMINISTRATIVE LAW JUDGE:

Q [REDACTED] the record indicates you have a GED education. Is

that right?

A Yes, sir.

Q Did you get, have any kind of training since then?

A Since the GED?

Q Yeah.

ATTY: Like any kind of technical training, things like that.

A No, no, I've just, I've just worked, you know. That's all I've done.

Q How about the w [REDACTED] Did you go to a school for that or you just learn on the job?

A The what?

ATTY: The what, Judge?

Q The w [REDACTED]

A Oh.

Q Did you learn that on the job or did you go to a school?

A No, I basically learned it on the job, you know.

Q Okay.

(The Vocational Expert, [REDACTED], having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q [REDACTED], would you state your name and address please?

A [REDACTED]

Q Counselor, do you have any questions about or objections to [REDACTED] qualifications?

ATTY: No, sir.

Q [REDACTED] have you been present for the entire course of the hearing?

A Yes, Your Honor.

Q Did you review the vocational materials in this file?

A Yes.

Q Do you need any further information from [REDACTED]?

A No, Your Honor.

Q Would you give us your assessment of his past relevant work experience?

A Yes, sir. The work he did as a [REDACTED] is SVP: 5, which is skilled, and it's classified as heavy exertional level.

Q That basically covers it all?

A Yes, it does. He's just a, he's a skilled [REDACTED]

Q Okay. Are there any [REDACTED] jobs at a sedentary, light level so he could transfer these skills to such a thing?

A No, most of the [REDACTED] jobs are between medium and heavy.

ATTY: You can stand up long as you need to.

Q [REDACTED], if the claimant is about 36 or 37 years old, in that neighborhood. If, with his education level and this past work experience, if he were limited to do the sedentary or light work where he would need some sort of an occupation where he could change positions throughout the workday, more than, more than most standard breaks and lunch, in order to relieve discomfort, can you suggest any jobs at either one of those exertional levels?

A As long as he's able to sit, and stand and walk six hours in an eight-hour day, and be productive, there's some unskilled, light exertional level jobs (INAUDIBLE). We have, there's a, a storage rental clerks, storage facility rental clerk. Do you need a DOT

numbers on these?

Q No.

A On the DOT number, you don't need -- 80,500 nationally; 6,400 in the Mid-Atlantic. We have unskilled sales clerk, which is at the light level. There's 164,600 nationally; there's 5,800 in the Mid-Atlantic. We have assembler small parts, there's a -- and that's under skilled, light. There's 30,500 nationally, and 4,700 in the Mid-Atlantic region. Do you need more than that, Your Honor?

Q No. How about at the sedentary level? Are there any there for you where you would have the opportunity to change positions occasionally if you wanted to?

A Yes.

Q Other than the regular breaks, and so forth.

A Yes, Your Honor. Again you'd have to be able to set six hours out of an eight-hour day and be productive. There's a charge account clerk. There's 380,000 nationally, and there's 34,000 in the Mid-Atlantic region. There's an order clerk, 587,000 nationally; 27,400 in the Mid-Atlantic. There's a office clerk with addresser, there's 343,000 nationally, and 17,500 in the Mid-Atlantic. Would you need more than that, sir?

Q No, I guess that would do. Are there any hazards involved in these jobs so if a person had some sort of problem (INAUDIBLE) they were required to avoid hazardous situations. Would that be a difficulty in any of these?

A No, Your Honor.

Q How about if they were limited to only occasional stooping and

crouching? Could they do that, with all of these, with these jobs, would that, would that be a problem?

A No, Your Honor.

Q If your discomfort limited you to, to the extent that you were required to change positions from sitting to standing, or standing to sitting, at least briefly in order to relieve discomfort for about every 15 minutes, could you still perform any of these jobs?

A It would be, I mean, you, you've got to be productive in an eight-hour work day. I guess it goes with the, the frequency and duration. If he's able to sit and stand every 15 minutes and still be productive, then that would work but if, if he basically having problems staying on task then that would take those jobs away.

Q Okay. He's described to us frequently why he has to just, has to sleep during the day. Could he do that on any of these jobs?

A No, Your Honor. The -- you get a 15 minute break in the morning, a lunch break, and 15 minute break in the afternoon, and if he's having to take more than that, then it would probably result in being discharged.

Q He's also testified so some ongoing depression or anxiety that has developed since the time of his accident. If this affects on his ability to perform all of the different parts of employment or at least (INAUDIBLE), would it compromise any of these jobs?

A Not these jobs, Your Honor. These are unskilled jobs, but probably unskilled jobs or jobs (INAUDIBLE) 30 days (INAUDIBLE).

Q Would he have to be able to work eight hours a day in order to do these jobs, with at least some position or other.

A He would have to work eight hours a day.

ALJ: That's all the questions I have. Counsel, do you have any?

ATTY: I don't think so, Judge. We would just ask Your Honor, to, if you would, to take into account the results of the FCE and the opinions rendered by the, the FCE examiner at Exhibit 12F, and the opinions in combination of the neurosurgeons, _____ well, actually, first _____ He's at Exhibit 5F. He, he did say that, that he had reviewed the FCE results and did not believe that, that _____ could perform any work right now. And we would also ask Your Honor to consider, if you would, that _____ either meets or equals listing 1.048 for spine disorders as well, and I think that--

ALJ: Okay.

ATTY: I think that's all I have, Your Honor.

ALJ: [REDACTED] we're finished. You can leave, okay? Good luck to you.

CLMT: Thank you, sir.

ATTY: Thank you.

ALJ: You're welcome. Good luck.

CLMT: Thank you.

(The hearing closed at 2:43 p.m. on January 25, 2008.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing held in the case of [REDACTED] before Administrative Law Judge Richard L. Swartz.

Linda Benson / cmc

Linda Benson, Transcriber
Free State Reporting, Inc.

Caroline Musterman / cmc

Caroline Musterman, Proofreader
Free State Reporting, Inc.



SOCIAL SECURITY

September 14, 2011

W. Howard O'Bryan, Jr.
Administrative Law Judge
Office of Disability Adjudication and Review
301 NW 6th Street
Room 300
Oklahoma City, OK 73102

Dear Judge O'Bryan:

I have noticed that your decisions include duplicate copies of medical evidence already contained in claimants' files. Additionally, you reference unnecessary legal and medical authority in lengthy footnotes in the decisions. This conduct is inconsistent with agency policies and regulations. Accordingly, I direct you to modify your decisions, as described in detail below.

A review of 168 decisions issued by you in Fiscal Year 2011 shows that, in 153 of those decisions, you included significant amounts of superfluous information, including unnecessary and lengthy citations to legal and medical authority. In addition, you inserted images of the claimant's medical records in your findings of fact and conclusions of law, instead of analyzing the information. Furthermore, instead of making specific findings, you simply state, "etc. etc. etc." at some points of the decision. Attachment A contains several decisions highlighting the inappropriate language and information.

As a Social Security Administration (SSA) Administrative Law Judge (ALJ), you are responsible for conducting hearings and issuing legally sufficient and defensible decisions. *See* HALLEX I-2-0-5.B. A legally sufficient and defensible decision requires that you comply with SSA's laws, regulations, rulings, and policies. In order for SSA to continue to meet its obligations to the public, it is essential that ALJs discharge their duties in a timely manner that reflects a high degree of responsibility, professionalism and integrity. You are expected to provide hearings and decisions to claimants in a timely and judicious manner. Satisfying these responsibilities requires an ALJ to follow both the letter and spirit of the policies he is bound to follow.

To ensure that you provide claimants with legally sufficient and judicious decisions, I am directing you to comply with all agency regulations and policies.

Specifically, pursuant to HALLEX I-2-8-25.C. *Writing the Decision, Content and Format*, the decision must state why the case is before the ALJ for a decision; provide the **rationale for the ALJ's findings** on the relevant issues and the ultimate decision; **list the ALJ's findings** on the

Permanent Subcommittee on Investigations

EXHIBIT #19

relevant issues; and **state the ALJ's ultimate decision** in a decisional paragraph which includes the relevant dates. (*emphasis added*)

The second part of the decision should provide the rationale for the ALJ's findings on the relevant issues and the ultimate conclusion, by including the following as applicable:

- (a) an explanation of the findings on each issue leading to the ultimate conclusion.
- (b) appropriate reference to the applicable statutes, regulations, and SSA rulings.
- (c) a discussion of the weight assigned to the various pieces of evidence in resolving conflicts in the overall body of evidence.
- (d) resolution of all subjective allegations, especially those regarding symptoms, and an assessment of the credibility of the evidence.

The fourth part of the decision should provide the ALJ's ultimate conclusion in the case. The decisional paragraph should be written in language which is brief and to the point.

Section D, *Language and Style*, sets forth that the ALJ must write the decision so that the claimant can understand it. Further, **the ALJ must avoid using non-prescribed standardized language, i.e. boilerplate, in the rationale.** (*emphasis added*)

In addition to the directive to adhere to the acceptable format for preparing decisions and to refrain from using unnecessary language in your decisions, I am directing you to refrain from the following:

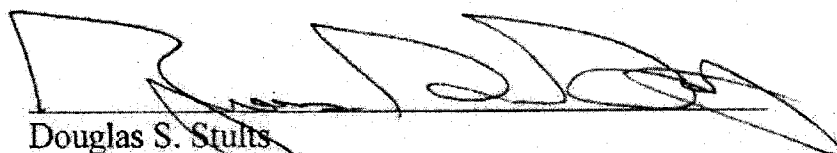
1. Inserting any portion of a claimants' medical evidence into the decision. The ALJ must analyze the evidence of record. While such analysis may necessarily require the adjudicator to summarize some of the evidence, it is unnecessary to insert images of the actual evidence into the decision. The claimant has access to all evidence in the record, and inserting images of the evidence into the decision is unnecessarily duplicative. In addition, such a practice makes the decision more difficult to understand.
2. Including portions of medical or legal authority in footnotes, or in the body of the decision. Notably, HALLEX I-2-8-25.D, *Language and Style*, sets forth that an ALJ must not cite medical texts and medical publications as the authority for resolving any issue. If it is necessary to refer to a medical text or medical publication, the ALJ must submit the material to the claimant or the representative for review and comment, and make the material a part of the record.
3. Summarizing claimants' impairments using the abbreviation "etc." or any derivation of this term.

In December 2008, Regional Chief Administrative Law Judge Joan Parks Saunders orally counseled you regarding the content of your decisions. In 2010, I orally counseled you twice about this issue. Despite these discussions, you continue to engage in conduct that directly affects the agency's mission to serve the public efficiently and effectively. This conduct is inconsistent with agency policies and regulations. Although this directive does not constitute disciplinary action, please be advised that failure to follow this management directive may lead to disciplinary action.

You should consider the Employee Assistance Program (EAP) as a possible resource for assistance in resolving any personal problems that may be adversely affecting you. The toll-free number for the EAP is 1-800-222-0364.

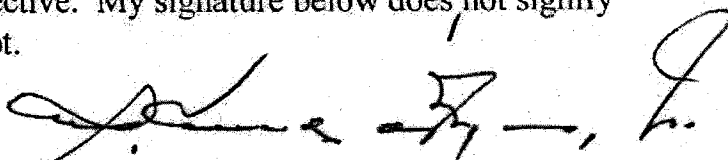
I urge you to accept this letter in the spirit in which it is given, as notice that your compliance with agency law, regulations, rulings, and policies is essential to providing due process for the public we serve. I sincerely hope that this letter has reinforced agency expectations and results in your improved conduct. I am available to discuss how we might further assist you.

Respectfully,



Douglas S. Stults
Hearing Office Chief Administrative Law Judge

I acknowledge receipt of this management directive. My signature below does not signify agreement, merely acknowledgement of receipt.



Dated: September 14, 2011

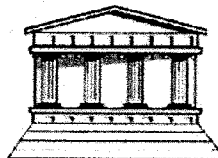
W. Howard O'Bryan, Jr.

OFFICE OF APPELLATE OPERATIONS EXECUTIVE DIRECTOR'S BROADCAST

Volume 2, Issue 16

August 19, 2011

Executive Director: Judge Patricia A. Jonas
Deputy Executive Director: Judge Gerald Ray
Executive Officer: Vanessa G. Butler



THE FOUR PILLARS OF DISABILITY ADJUDICATION AND REVIEW

- Due Process of Law
- Factual Accuracy
- Policy Compliance
- Timely Service

ODAO staff may submit suggestions for consideration to:
 |||ODAR OAO Admin Services.

In this issue (Click on links below to go to):

- [Remands of Dismissals Decline](#)
- [New Administrative Appeals Judges \(photo\)](#)
- [Progress Towards Fiscal Year 2011 Goals](#)
- [ODAO Staff Profile](#)
- [Technology Tip - Graphics](#)
- [ODAR LDP Brings Management Experience to Appeals Officer](#)
- [Endocrine Disorders Remain Impairments After Listing Update](#)
- [Employee Benefits Information System](#)
- [Analyst Tip - Prototype States](#)

Remands of Dismissals Decline

Trends in dismissal remands demonstrate how OAO's data collection and analysis mission can contribute to improved performance of the disability adjudication process (see [ODAO newsletter 10/8/10](#)). OAO staff noticed that in FY 2009, Appeals Council remands of requests for review (RR) of administrative law judge (ALJ) dismissals had reached 22.2% of all remands, according to data gathered through the Appeals Review Processing System (ARPS).

After several educational efforts, that percentage dropped to 19% in FY 2010 and is on track to a projected decline to 17.6% of RR remands by the end of FY 2011. These reductions become even more significant when compared with a projected 38% increase in RR from FY 2009 through FY 2011.



Analysis of more detailed ARPS data revealed that the three biggest of 18 measured reasons for dismissal remands are:

- (1) the hearing notice was sent to the wrong claimant address.
- (2) acknowledgement procedures were misapplied, and
- (3) that the claimant actually had shown good cause for untimely filing of a hearing request.

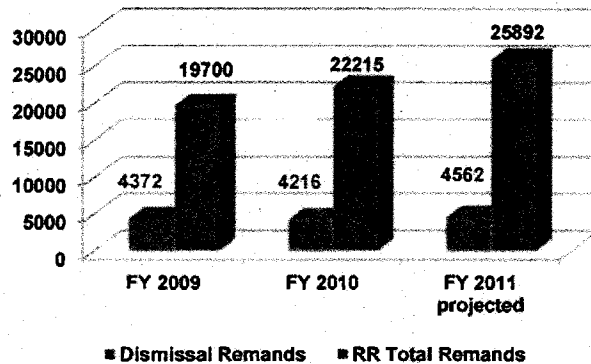
ARPS data show that the first two measures are projected to drop 12% and 40%, respectively, by the close of FY 2011, and the third would increase only 15%.

What brought about the decline in dismissal remands? OAO prepared [desk guides](#) for ALJs summarizing procedures for handling dismissals due to failure to appear, when hearing requests aren't timely filed, and dismissals at the claimant's request. Appeals Council members presented the dismissal guides and refresher sessions to ALJs attending the 2010 and 2011 Annual National Judicial Educational Program (ANJEP) in Falls Church/Alexandria ([ODAO newsletter 10/22/10](#), p. 3).



New administrative appeals judges (AAJs) were sworn in at a July 29 ceremony on Capitol Hill. Pictured (front row, from left): AAJ Michael Siegel, AAJ Milande Louima, Commissioner Michael Astrue, ODAR Deputy Commissioner Glenn Sklar, acting Social Security Advisory Board Chair (and speaker at the ceremony) Barbara Kennelly, Chief ALJ Debra Bice; (back row, from left): AAJ Laura Ort-Preasley, OAO Deputy Executive Director Gerald Ray, AAJ Constance Mallon-Link, AAJ Edward Aldrich, Assistant ODAR Deputy Commissioner Jim Borland, and OAO Executive Director Patricia Jonas. Not pictured: AAJ Stanley Smallwood. [Click here](#) to view

Appeals Council members also held discussions with small groups of ALJs on reasons for remands. In addition, the Office of the Chief Administrative Law Judge circulated a memo on Sept. 29, 2010, to regional chief ALJs reiterating dismissal rules as spelled out in several HALLEX sections.



The ODAR Office of Appellate Operations publishes the Executive Director's Broadcast generally every other week. To see past issues, go to the OAO newsletter searchable [archive](#) on the SSA Intranet.

In our next issue:

[To be published on September 9, 2011]

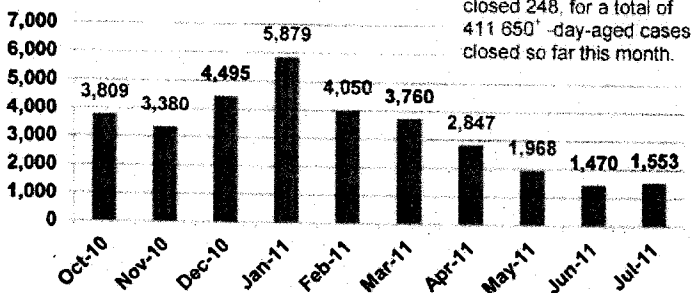
- Baltimore Offices Help Power OAO Public Service Mission
- Plus much more.

Progress Towards FY 2011 Goals (4th Quarter, FY 2011)

Progress in Reducing RR Cases That Are Now or Will Be 650 Days or Older by the End of FY 2011

We began Fiscal Year 2011 with 34,275 cases that would become 650 days old if not processed by the end of the fiscal year. In other words, OAO had 34,275 cases that had been pending for more than 285 days at the start of the fiscal year. Our monthly progress is shown below. By 08/12/2011, there were 1,235 cases actually 650 days or older.

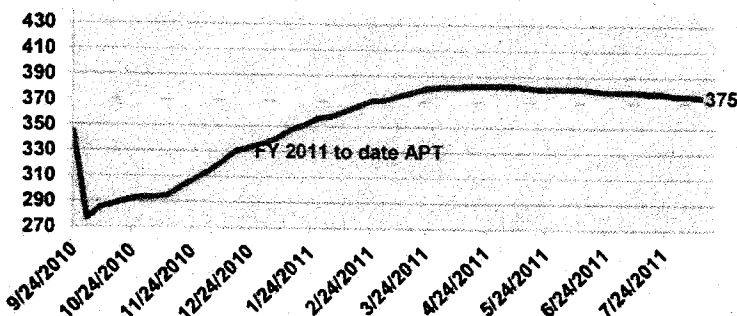
650+ day aged closed by month



As of Aug. 5, we closed 163 and as of Aug. 12, we closed 248, for a total of 411 650+ day-aged cases closed so far this month.

RR FY 2011-to-Date Average Processing Time

Request for review average processing time (APT) per week peaked in the middle of the fiscal year as we addressed the cases projected to be 650 days or older by end of the fiscal year. Our goal for RR APT is 370 days.



OAO Staff Profile

According to his division director, Kelly (Floyd) Carpenter, supervisory legal assistant in CCPRB 1, is an outstanding SLA. He strives to keep his section current and is very responsive to the Office of General Counsel. Even in the tough times, Kelly keeps moving in the right direction. Kelly takes responsibility and holds himself accountable. He presents the outside world with a positive vision of OAO. Kelly is working in a branch where there is no permanent branch chief. He goes above and beyond to help others and keep that branch moving on the right track.

Technology Tip – Graphics: Are you looking for graphics to illustrate a concept in a report or PowerPoint presentation? Try the [SSA Graphics Library](#). It offers symbols, drawings and photos in 28 categories from awards to USA.

ODAR LDP Brings Management Experience to Appeals Officer

With a long track record of production-oriented work, Appeals Officer Klara Huesers wanted to explore her interest in experiencing responsibilities at the management level. Her opportunity came with acceptance into the 2010-2011 ODAR Leadership Development Program (LDP), which was open to attorneys hired on an "excepted service" basis.

Huesers had long familiarity with disability adjudication at the case level since she joined the Minnesota Disability Determination Service as a disability examiner. After a dozen years there, she accepted a position with SSA in August 2006 as a Federal reviewing official and most recently served as an AO in Branch 13 in Falls Church. Under her ODAR LDP, she's performed three assignments, all of which provided a broader perspective of ODAR and OAO's functions and a different work environment. Her three assignments were:

- Office of the Chief Administrative Judge (OCALJ) as acting executive assistant reporting to then-Deputy Chief Administrative Law Judge JoAnn L. Anderson and where Huesers gained valuable experience working in a front office environment. "It was totally different" from the insular nature of production, she says. For example, she experienced receiving large volumes of e-mail, leading her to learn strategies for organizing and filing it and managing responses. "It was a sink or swim environment," she says.

- An assignment with ODAR's Dallas office as acting deputy regional management officer exposed Huesers to the field of labor-management relations. She supervised a legal team that responded to grievances and other issues in the region and helped develop methods for addressing grievance and performance issues on a continuing basis and monitoring their status.

- Her last assignment returned Huesers to Falls Church where she served as acting deputy director of the Division of Finance and Budget Analysis, supervising three branch chiefs. She learned budget terminology, provided a fresh set of eyes for review of budget and other reports, assigned work, helped troubleshoot staffing issues, and pursued employee development opportunities for staff.

The ODAR LDP has been "a wonderful opportunity to try out things you think you might be interested in or find things you never thought you'd be interested in," she said. It also enhanced her skill set and understanding of ODAR's varied responsibilities.

"Any opportunity you have to get management or front office experience, take it," Huesers recommends to her OAO colleagues. "The earlier in your career you do it, the better. The advantage is that you will learn some of the basics of management at a lower level" where the scope of responsibilities is narrower than at upper levels of ODAR or SSA. Since the next ODAR LDP round hasn't been scheduled, she suggests signing up for details as another way of broadening your experience and finding new professional areas of interest.



Endocrine Disorders Remain Impairments After Listing Update

Citing significant advances in diagnosis and treatment of endocrine disorders over the past 26 years, SSA adopted a major revision in the medical evaluation criteria for the disorders, which cause hormonal imbalances that can lead to a wide range of medical problems. After June 7, 2011, all endocrine disorders – including diabetes mellitus (DM) and thyroid, pituitary and adrenal gland disorders – no longer can serve as the sole ground for a disability finding for adults and children, except for children under 6 who require daily insulin, according to the [updated listing regulation](#). (There's also a [video on demand](#) prepared by the Office of Medical Listings Improvement.)

For OAO analysts and Appeals Council adjudicators, the most frequent application of the endocrine listing ([9.00/109.00](#)) occurs in reviewing ALJ findings for steps 4 and 5 of the evaluation process. Even though most endocrine disorders were, in effect, delisted, they remain potential medically determinable impairments and their complications can contribute to exertional, postural, environmental, visual, manipulative and even mental limitations associated with a variety of other body systems such as cardiovascular, renal, mental, neurological and visual, points out Division I Chief AAJ Gabriel DePass. Analysts and adjudicators should review the ALJ's residual functional capacity (RFC) finding to ensure it reflects these limits when they're supported by the medical evidence of record (MER).

For example, a thyroid disorder may cause blood pressure and heart rate changes resulting in arrhythmia (abnormal heart beat) and exertional limitations because the claimant cannot handle the stress of lifting heavy objects. A pituitary gland disorder may result in an electrolyte imbalance (and eventual diabetes), leading to muscular fatigue and balance problems, preventing claimants from working on a ladder. With diabetes, an individual who has hypoglycemia (abnormally low blood sugar level) may have seizures or cognitive deficits, inhibiting operation of machinery.

As Judge DePass notes, endocrine disorders also can affect cognitive functioning. "Mental conditions are interesting because a lot of us don't think about them," he says. "When you have a hormone imbalance or imbalance in electrolytes, in particular, it can affect a person's mood. A person may get grumpy and irritable, causing social limitations, or suffer short-term loss of memory."

When evidence of endocrine disorders appears in the MER, analysts and adjudicators should scrutinize the ALJ's evaluation of a claimant's credibility and subjective statements relating to his or her general feeling. "The claimant may say his whole metabolism is off and that he's fatigued, depressed or sleepy," Judge DePass says. Those complaints, if supported by the record, should be reflected in RFC limitations and the claimant's ability to perform past relevant work or other work. For example, a claimant suffering from fatigue would not qualify for a job driving a bus.

All hearing office actions (favorable decisions, denials and dismissals) dated on or after June 7 should evaluate endocrine disorders under the new rules. The endocrine listing change also could factor into analysis of a request for review of an ALJ action based on the legal principal of *res judicata* (see [OAO newsletter 7/22/11](#)).

Employee Benefits Information System (EBIS)

You may be interested in an online retirement seminar that is now available through the Employee Benefit Information System (EBIS). According to Bob Gehken of the Falls Church office of the Center for Personnel Policy and Staffing, the EBIS provides all permanent SSA employees access to benefit information as well as information regarding their own benefits. A Personal Statement of Benefits provides projected retirement benefits, information regarding disability retirement, early-out retirement, death-in-service survivor benefits, health and life insurance coverage, and leave balances. An annuity calculator is available where you may enter various retirement dates and high three average salaries to aid in financial planning. In addition, EBIS provides information on the effects of the Windfall Elimination Provision, if applicable. Finally, the system has the ability to estimate future Thrift Savings Plan balances, rates of return, and annuity payments based on your personal TSP information and allocations. You can access EBIS via the intranet at work from the Quick Tools Chart on the [OPE Portal](#). In addition, you may access the EBIS over the intranet from your home computer at this [link](#). For first-time EBIS users, it is suggested that you enter via the OPE Portal as helpful hints and instructions are provided when logging on from this [location](#).

Analyst Tip – Prototype States: As the Appeals Council works more cases across jurisdictions, analysts need to know the differences between prototype and non-prototype states. When claimants move in or out of any of the 10 "prototype" states – Alabama, Alaska, California (LA West and North Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York and Pennsylvania – their prototype or non-prototype status goes with them. In prototype states, the claimant receives an initial determination, skips the reconsideration level and can request a hearing as the next level of appeal. In non-prototype states, the claimant is entitled to a reconsideration determination after an initial determination, and must have a reconsideration determination before requesting an ALJ hearing. This policy (left over from 1990s era disability design test) plays an important role when you analyze a request for review of an ALJ dismissal of a hearing request. For example, an ALJ should dismiss a hearing request from a claimant who moves to Michigan from Indiana after receiving a denial at the initial level because the claimant has not yet gone to the reconsideration level as required in Indiana. The claimant's relocation to Michigan doesn't allow the claimant to forego the reconsideration level even though Michigan has none, since the originating status stays with the claim.



For a handy table showing when claimants are entitled to a hearing, see [HALLEX I-2-4-99](#).

OFFICE OF APPELLATE OPERATIONS
EXECUTIVE DIRECTOR'S BROADCAST

Volume 3, Special Edition – Quality Review

January 13, 2012

Executive Director: Judge Patricia A. Jonas
Deputy Executive Director: Judge Gerald Ray
Executive Officer: Vanessa G. Butler

OAO staff may submit suggestions for consideration to:
|||ODAR OAO Admin Services.



THE FOUR PILLARS OF
DISABILITY ADJUDICATION AND REVIEW

- Due Process of Law
- Factual Accuracy
- Policy Compliance
- Timely Service

In this Special Edition (Click on links below to go to):

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- ["Focused Quality Reviews" Enhance DQ's Mission](#)
- [What the Data Reveals So Far](#)
- [DQ Plans ALJ Participation](#)
- [DQ Dives Deep into Quality Data](#)
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- [Absence of Substantial Evidence Triggers Own Motion Review](#)
- ["How MI Doing?" Gives ALJs Easy Access to Remand Data](#)
- [Q&A on Disability Adjudication Consistency](#)

Division of Quality Brings New Data, Insight to Disability Process

In its first full fiscal year of operation (FY 2011), OAO's Division of Quality (DQ) Appeals Council members exercised own motion review of 22% of the 3,692 favorable hearing decisions they reviewed while allowing the remainder to proceed to effectuation. Of own motion cases closed at the end of FY 2011, the Council issued 550 remands and 73 favorable, 57 partially favorable and 5 unfavorable decisions, with 128 cases pending responses from claimants (see charts, page 2). These results, however, represent only one dimension of DQ's quality review mission (see Focused Reviews, p. 1).

As Division Chief AAJ Robert Johnson describes DQ's role: "We define quality broader than whether the hearing decision is right or wrong." DQ leverages OAO's national perspective and position at the end of the administrative review process to generate and analyze data never before available to SSA on unappealed hearing decisions.

These data and analyses will help SSA identify patterns of decisional shortcomings and suggest topics for training programs and the possible need for policy clarifications or procedural adjustments. They also will lend insight into state disability determination service (DDS) versus hearing level decision-making that could lead to granting disability benefits at the DDS level, thereby reducing claimant wait times and appeals.

As DQ staff review unappealed decisions by administrative law judges (ALJs) and hearing office senior attorney adjudicators (SAAs), they enter extensive information into the Appeals Review Processing System (ARPS), providing SSA with a fresh data perspective of its disability process. These data detail everything from the most recent DDS decision and procedural, evidentiary and residual functional capacity (RFC) issues to how the hearing level adjudicators used medical and vocational experts. (For details on DQ's data sampling methodology, see story on p. 3.)

(See Division of Quality . . . on p. 2)

ALJ Courtesy Copy

As a courtesy to agency administrative law judges, we provide a copy of this special issue of the OAO *Executive Director's Broadcast*. It describes the operation of the OAO Division of Quality, which conducts pre-effectuation reviews of thousands of favorable ALJ decisions a year.

To provide feedback, ALJs may address an e-mail to |||ODAR OAO Admin Services.

"Focused Quality Reviews" Enhance DQ's Mission

In addition to its sampling of pre-effectuation reviews, the Division of Quality (DQ) conducts focused, post-effectuation reviews in certain circumstances, with several goals in mind. These goals include: identifying recurrent decisional issues for incorporation into future focused training; identifying where changes may be needed in policy articulation or in hearing office procedures; and helping ALJs and hearing offices to provide service to the public in the form of quality adjudication and decisional articulation.

These goals are accomplished not only by identifying general patterns but also by taking a closer look at what underlies outlier statistics. ODAR can use information gleaned from these "focused quality reviews" (FQRs) to develop training programs, materials, tools, or software to support ALJs and hearing offices in overcoming problems that are identified and in providing public service at the consistent, policy-compliant level that adjudicators and managers across ODAR seek to maintain.

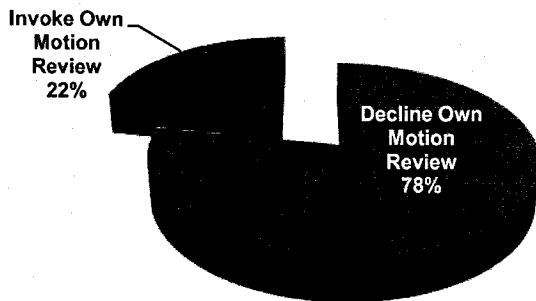
(See Focused Review . . . on p. 4)

The ODAR Office of Appellate Operations publishes the Executive Director's Broadcast generally every other week. To see past issues, go to the OAO newsletter searchable [archive](#) on the SSA Intranet.

What the Data Reveals So Far

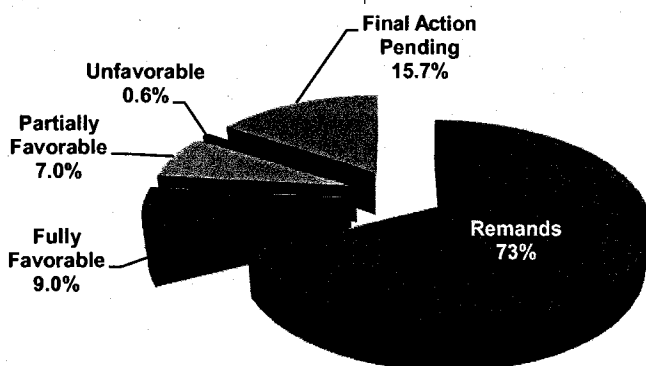
FY 2011 Division of Quality Own Motion Review Rate

In its FY 2011 review of favorable hearing decisions, the Division of Quality (DQ) invoked "own motion review" for about 22% to perform further review, which resulted in Appeals Council remand orders or corrective decisions (see chart below). For cases where the AC declined own motion review, effectuation proceeded to pay benefits to claimants.



FY 2011 Dispositions by Division of Quality

Remands constituted the largest portion of AC actions taken under own motion review in FY 2011. Corrective decisions accounted for 17% of AC actions.



Division of Quality . . . from p. 1

One example: DQ staff collect data on cases where an ALJ or SAA approved a disability claim based on the same evidence that the DDS used to deny it. "We look to see whether the decision issued at the hearing level could have been issued earlier," says Judge Johnson. "Quality involves a timeliness factor, too – not just giving the right decision but giving it as soon as possible. Could that decision have been issued earlier? If so, why wasn't it? Was it evidence that came in, was it just a difference based on the same evidence? That's what we're starting to collect."

Trends in Step 3 versus Step 5 decisions provide another example of DQ's contribution to understanding disability policies' effect on adjudicator actions. Of the decisions DQ reviewed in FY 2011, hearing offices decided cases at Step 5 (ability to perform other jobs) versus Step 3 (medical impairment deemed disabling) at about a 4-1 ratio, a disparity that surprised Judge Johnson. "In days gone by,

there were more Step 3 decisions. I think Step 3 grew harder to use as a basis for a favorable decision as we added functionality and evaluation of credibility" (see [OAO newsletter 2/18/11](#), p. 3). DQ collected information on 657 Step 3 and 2,833 Step 5 decisions. As a new source of data and insight on this issue, DQ staff are participating in a recently formed SSA workgroup examining what factors result in Step 5 allowances.

As with ALJ decisions reviewed by OAO disability program branches, evidentiary support of the RFC constitutes the biggest portion of problems in favorable decisions for which DQ invokes own motion review. "One of the reasons is the frequent use of inability to sustain working eight hours a day," says DQ Division Director Carmine Borrelli. "That's become a catch-all for a lot of adjudicators in these cases. They often don't point to any evidence indicating the claimant has these limitations." Use of this finding also avoids the need for a vocational expert. "What we envision is giving feedback to the agency saying this is an issue that needs to be clarified. It's not being applied properly and consistently."

DQ Broadens Goals for FY 2012

Based in OAO's Crystal City, Va., offices, DQ consists of four support staff members, five managers, 46 attorney-adviser analysts, five appeals officers and seven administrative appeals judges. DQ recently added 12 new attorney advisers and plans to expand the number of cases it reviews, Borrelli says. In addition to reviewing unappealed favorable decisions in FY 2012, DQ may extend its efforts by reviewing unappealed dismissals, the effectiveness and clarity of AC remand orders, and compliance with those orders.

DQ Plans ALJ Participation

The Division of Quality plans to include ALJs in its review process during FY 2012. Two ALJs would help review and adjudicate cases during a series of 120-day details. Division Chief AAJ Robert Johnson says he and other OAO staff remember the positive experiences they had working with ALJs on the now-terminated Decision Review Board (see [OAO newsletter 5/6/11](#)). "You learn from each other," Judge Johnson explains.

"ALJs have a perspective that we don't always know or appreciate." Incorporating ALJs into DQ's peer review also offers an external benefit. "If you have an ALJ and AAJ that did the case review together and determined that own motion was necessary, that gives you an additional measure of credibility," he says. "ALJs also can see in the course of four months a substantial number of decisions written by other ALJs and share what they learned with their hearing offices. It's a win-win all around."

DQ Dives Deep into Quality Data

The type of data the Division of Quality collects shows how its mission extends beyond review of individual cases. In fact, the July 2011 ARPS update boosted the number of fields in the DQ case analysis tool to about 100 so DQ could collect even more data. OAO will share analysis of these data with other SSA components to help shed light on possible areas of improvement of the disability adjudication process.

In addition to numbers of effectuations allowed, remands and Appeals Council decisions, other examples of data DQ collects and analyzes include:

- **Variations between the 10 regions in the rate of effectuations, remands and AC decisions.** By sampling at least 3,500 decisions, DQ obtains data that are statistically valid to the regional level. It began sampling Boston region favorable decisions after the June 13, 2011, termination of the Decision Review Board.

- **How much time DQ review adds to the effectuation process.** Review of a favorable ALJ or SAA decision delays its effectuation to give DQ staff time for analysis and deciding whether to invoke own motion review. In FY 2011, DQ review added only 23 days on average to cases where it decided to allow effectuation to proceed without own motion review.

- **Decisions by hearing office SAAs as well as ALJs.** In FY 2011, DQ took a higher percentage of own motion reviews for SAA decisions – by 5 percentage points – than for ALJ decisions. Since SAAs make only on-the-record decisions, the lack of a hearing to help resolve issues such as earnings contributed to higher review rates, DQ found. Other factors included not addressing onset dates that invaded the period of a prior claim, and basing a decision on the Medical-Vocational Guidelines but not considering transferability of skills when claimants had held skilled or semi-skilled jobs. As with ALJs, the most prevalent issue with SAA decisions was lack of medical evidence in support of RFC findings.

- **Whether decisions involving certain impairments are more prone to error.** DQ tracks primary and secondary impairments that pose the greatest problems to ALJs and SAAs for reaching legally sufficient decisions.

- **The impact that use of a medical expert (ME) has on legal sufficiency of step 3 decisions and use of the vocational expert (VE) has on step 5 decisions.** This data collection effort may indicate whether the rate of DQ effectuations, remands and decisions varies by whether an ALJ took testimony from an ME or VE.

- **How often hearing decisions do not properly address work activity after onset.** DQ found 191 instances of this problem in FY 2011. Often during own motion review, representatives submitted evidence of earnings that helped DQ adjudicate the case, sometimes in the claimant's favor.



DQ Sampling Method Seeks Objectivity

In selecting a sample of favorable hearing decisions for review, the Division of Quality takes a simple, straightforward approach. It accesses the hearing level's Case Processing and Management System and usually selects every tenth favorable decision in each region at a rate of four a day and about 70 a month. The quality review work group, OAO Executive Director's Office staff and the Office of Systems developed this system to ensure that DQ obtains an objective sample, without identification of individual ALJs, hearing offices or allowance rates.

Review of favorable ALJ decisions became a subject of contention after Congress approved the 1980 "Bellmon Amendment" to the Social Security Act, which resulted in a review program that initially targeted high allowance ALJs. In 1984, Congress amended the Act to terminate the Bellmon review because of concerns about its effect on ALJ decisional independence. Unlike Article 3 judges, the judicial independence of ALJs is constrained by agency policies that are binding on the ALJs.

DQ adjusts the rate of cases produced by its sampling approach when it needs to manage the size of its incoming case workload. DQ staff work under a tight deadline that requires them to determine within 60 days whether to invoke own motion review. "We have parameters that we set that control the flow of cases so that we are not inundated and cannot get to them all," explains Division Director Carmine Borrelli. "If we need cases quicker, we can increase the number per day. If we are getting overloaded, we can decrease that number."

Top 10 Reasons for Remand of Unappealed Hearing Decisions

The list below shows the top 10 reasons in descending order for Appeals Council remands in FY 2011 of favorable hearing level decisions. At the end of FY 2011, Council members serving with the OAO Division of Quality had issued 550 remands. There are 170 reasons for remand; any remand can have up to three reasons associated with it.

- RFC – exertional limitations inadequately evaluated
- RFC – mental limitations inadequately evaluated
- Claimant credibility – failed to discuss appropriate credibility factors
- RFC – other (articulation issues)
- Drug or Alcohol Abuse – insufficient articulation of DAA rationale
- RFC – non-mental non-exertional limitations inadequately evaluated
- Incomplete/inaccurate record – record inadequately developed
- Onset date/closed period/CDR
- RFC – effect of combination of impairments inadequately evaluated
- Treating source – recontact necessary.

Focused Review . . . from p. 1

When DQ finds, based on its sampling of pre-effectuation cases, that there is a much higher-than-average rate of own motion review for an ALJ or hearing office, then it may conduct FQRs to evaluate what may be a problematic pattern in the adjudication of disability cases. OAO also selects subjects for FQRs based on analyses of other agency data. OAO is working with the ODAR Division of Management Information and Analysis, as well as the SSA Office of Quality Performance, to develop algorithms to improve the selection process for additional FQRs.

After completing the FQR, DQ reports its data and findings (but no recommendations) to the Office of Chief Administrative Law Judge and ODAR executives for whatever educational or other executive action they deem appropriate.

Since DQ began performing FQRs in the spring of 2011, it has completed about 16 for ALJs and SAAs and about three for hearing offices. "Our focused reviews don't involve our DQ adjudicators," notes Division Director Carmine Borrelli. "We don't want them involved because it is post-effectuation. We're not taking own motion review, we're just trying to see if we can identify any trends or issues that might be problematic or require a reminder or training for a judge or hearing office."

The Appeals Council's own motion review authority (20 CFR 404.969 and 416.1469) prohibits sampling cases based on "the identity of the decisionmaker or the identity of the office issuing the decision," so the Council does not take adjudicative actions regarding specific cases reviewed under the post-effectuation focused review of cases.

Teams of DQ managers and attorney-adviser analysts perform the focused quality reviews, which take about four to five days each. Once a team selects an FQR subject, it screens a sample of 60 to 80 cases for a random period against several criteria, collecting data and information that might reveal issues of concern or patterns that may conflict with agency policies or regulations. Some criteria that may be included are how many decisions are on the record, how many are bench decisions, how long the hearing lasted, whether claimants submitted additional evidence after the state agency determination, and whether the file includes opinion evidence from treating, examining or non-examining sources. DQ staff then conduct a more in-depth review of about 25% of screened cases and report on those findings.

Focused quality reviews, for example, have identified several judges that rely solely on opinion evidence received at the hearing level. "The ALJ doesn't evaluate it or evaluate whether it is consistent with the other evidence, which is required before the opinion evidence can be given controlling weight, and finds that claimant is disabled. In many of these cases, the opinion evidence was not supported and was inconsistent with the other evidence of record," Borrelli says. As for hearing offices, an FQR found that one office used the same two medical experts in about 80% of cases instead of selecting them on a rotational basis. "In that case, we did a referral to the Chief ALJ's office to let them know we've found this pattern." In other studies, DQ found that hearing offices did not follow other agency policies and procedures in the assignment of cases.

DQ staff begin each FQR with an open mind "not expecting to find anything," Borrelli adds. "What we find, we find. Then we report it. We don't have any agenda behind what we're doing. We're just trying to make sure that the agency issues consistent decisions and follows proper procedures, regulations and the law so that the people who should be found disabled are and the people shouldn't be aren't. That's our goal."

RR/DQ Differences: Favorable Decision Brevity Puts More Focus on Record

Reviewing favorable ALJ or SAA decisions makes for a different experience than reviewing requests for review (RR), OAO analysts and adjudicators have learned. DQ Division Chief AAJ Robert Johnson, who has more than a dozen years experience adjudicating RRs, spelled out the differences he's seen:

- **Favorable decisions are shorter**, with about two to three pages or less of rationale compared with two or three times that amount in ALJ denial decisions. Shorter decisions tend to mean briefer descriptions and evaluation of the medical evidence, including medical source opinions, and less rationale explaining the nexus between the medical evidence and the RFC. "Sometimes you have to reconstruct the rest of the decision to figure out the basis for the ALJ's finding of the RFC before you can ask whether it is supported by substantial evidence."

- **DQ staff can find themselves taking benefits away from claimants** because the record doesn't support a favorable decision and doesn't even require a remand. "You have to prepare for a different mindset," Judge Johnson says. In

(See RR/DQ Differences . . . on p. 5)

DQ Own Motion Review Timeline

During various periods in its history, the Appeals Council has conducted own motion review of favorable hearing decisions. Launched at the end of FY 2010 (see OAQ newsletter, 9/17/10, p. 3) after 10 months of planning, the Division of Quality made history as the first OAO component dedicated solely to own motion review, which it performs under 20 CFR 404.969 and 416.1469. Since DQ's work deals with decisions where claimants already have received a favorable disability decision, regulations specify a unique timeline for Appeals Council action:

- **60 days after the hearing decision:** The Council must decide whether to review the decision on its own motion. DQ attaches an alert to the electronic case file notifying other SSA components not to effectuate payment until the Council acts.
- When it opts for own motion review, the Council sends claimants and all affected parties a notice explaining the reasons and setting a **25-day deadline** for submission of additional evidence or written statements.
- **110 days after the hearing decision:** The agency begins paying interim (but not retroactive) benefits if the Council hasn't released the case for effectuation, issued a corrective decision, or remanded the case to the hearing office and it has not issued a new decision. If the Council issues an unfavorable decision or the ALJ does so on remand, the agency will not regard interim benefits as overpayments.

To assist field offices and payment centers in understanding how it operates, DQ added a frequently asked questions page to the OAO Intranet website.

RR/DQ Differences . . . from page 4

FY 2011, that happened in only five cases, however. Actually, he was surprised by the number of more-favorable, corrective decisions that DQ judges issued by approving an earlier onset date when supported by the medical evidence. Often in these cases, DQ analysts and adjudicators discovered that the hearing level found a claimant disabled during a period covered by a prior determination but didn't reopen it to address its earlier onset date.

- **DQ analysts and adjudicators see fewer briefs** or contentions to help identify issues, including errors of law, since the decisions they review are favorable. Representatives sometimes submit statements in response to own motion notices but the number has been smaller than expected.

- **Every case has a deadline of 60 days** from the ALJ's or SAA's decision (or ALJ dismissal of a hearing request when an SAA issues a favorable decision) for the Appeals Council to decide whether to conduct further review and decision-making on its own motion or allow effectuation to proceed.

- **Analysts produce more detailed remand orders** that draw content from own motion notices. These labor-intensive notices explain to claimants at length why the Appeals Council will assume jurisdiction over their case for further review and how it may affect them.

"In response to our own motion notices, sometimes claimant representatives submit medical evidence and we will issue a favorable decision based on their submission," Judge Johnson says. "A number of cases have gone back to ALJs who have held a hearing and gotten additional development, which supported a favorable decision. So I'd caution people about looking at own motion review as an indication that the decision was wrong."

Absence of Substantial Evidence Triggers Own Motion Review

What prompts OAO's Division of Quality Appeals Council members to take own motion review of an unappealed hearing decision under 20 CFR 404.969 or 416.1469? They use this criterion: Whether the case record shows the decision is supported by substantial evidence (HALLEX I-3-3-4). If two AAJs agree there's a lack of substantial evidence, then the case undergoes further review and a possible remand or corrective decision (see DQ Own Motion Review Timeline, page 4).

This approach often means that Council members allow effectuation of a favorable ALJ or SAA decision even though it may not sufficiently discuss the evidence or articulate the reasons for a finding of disabled. If the adjudicators' review nonetheless finds sufficient evidence in the record that supports the finding, the Appeals Council won't invoke own motion review. For example, an ALJ could make an error of law by not properly discussing evidence of a claimant's drug or alcohol abuse (DAA), but if the record supports a disability finding regardless of the DAA, then the Council would not take own motion review.

"How MI Doing?" Gives ALJs Easy Access to Remand Data

As one of its key missions, OAO shares disability adjudication data it collects with other SSA components for uses they deem appropriate for their missions. A case in point: ODAR has launched a web-based system called "How MI Doing?" (HMID) that gives every ALJ a quick look at several types of data including Appeals Council remands issued under the Council's own motion and requests for review authorities. Called "How MI Doing?" (HMID), the system allows ALJs to compare their personal workloads and productivity against the average of all ALJs in their hearing office, their region and nationally, updated daily.

The remand data that ALJs see come from information that OAO staff enter into the Appeals Review Processing System (ARPS). These data now appear as HMID bar chart displays showing ALJs all 10 remand categories, top 10 remand reasons in each category and the top 20 reasons across all remand categories. ALJs can see data for Appeals Council remands, court remands or a sum of them for their hearing office, region and nationally.

While ALJs conceivably could have accessed remand data previously, it would have taken a lot of time and effort, says Jeffrey Liu, Ph.D., senior advisor, ODAR Office of Electronic Services and Strategic Information. Since the rollout on Aug. 9, 2011, following seven months of testing and fine-tuning, ALJs nationwide can simply click the appropriate MI menu items on their desktop to display HMID data and rankings. They cannot yet see their personal remand data and rankings for several reasons, including the need to build a data history and track and adjust for ALJ relocations between hearing offices.

Personal data that ALJs do see include their pending, dispositions, average processing time – for the week, month and fiscal year to date – and hearings scheduled for the coming three full months. ALJs do not see comparisons to individual ALJs in their hearing office, but see themselves compared to averages for all the office's ALJs (including themselves). The system follows the same principle for comparisons to each ALJ's region and in the nation. HMID also delivers productivity data to hearing office decision writers (DWs). It similarly provides a graphical display that compares and ranks the number of decisions they drafted against the average for all DWs in their hearing office, and against regional and national averages. "Management wants people to know – this is where you are," Liu says.

See the next page for a Q&A discussion with Deputy Executive Director Gerald Ray on disability adjudication consistency.

Judge Gerald Ray Addresses Disability Adjudication Consistency

The Office of Appellate Operations is the home of the Appeals Council and serves as the final administrative step in the SSA disability adjudication process, reviewing more than 130,000 hearing level decisions across the country. SSA now has added pre-effectuation review of favorable hearing decisions to OAO's responsibilities. Gerald Ray, OAO deputy executive director and an administrative appeals judge, offered the following answers to OAO newsletter staff questions about the reasons behind OAO's newest mission.

Q *Did recent press articles and the July 2011 TRAC study on inconsistencies in disability adjudication prompt SSA to establish the new program to review favorable hearing-level decisions?*

A No. We stood up the Division of Quality (DQ) more than seven months before these articles and the study were published – not in response to them. The articles and the TRAC study point to wide disparities in ALJ decisional patterns. In fact, the TRAC study contended that obtaining a favorable Social Security disability hearing decision depended more on the judge than the facts of the case. SSA created DQ because there was no pre-effectuation review of favorable decisions, which constitute the bulk of hearing decisions (about 60% in FY 2011). The agency is obligated to administer the disability program in an even-handed manner. Any unfairness in adjudication undermines public confidence in the agency, and undermines the credibility of the program and the people who administer it.

Q *How is it possible to achieve even-handedness in hearing decisions when claimants and their circumstances differ so much?*

A Social Security law and regulations provide the framework for ensuring that applicants for disability receive the benefits of due process of law, correct identification of the issues and adequate consideration of relevant evidence, all resulting in appropriate decisions.

Q *Administrative law judges and senior attorney adjudicators each adjudicate hundreds of cases a year. People often use heuristics to deal with complex issues, so couldn't they help reach a decision in a disability case?*

A People frequently use heuristics, or rules of thumb, to form a mental framework to simplify consideration of issues, often based on their experience in dealing with similar problems. Properly crafted heuristics can effectively speed up the process of correctly dealing with complex issues. However, use of inartfully crafted heuristics to view a problem in a customary or traditional manner may result in framing issues too narrowly, over-reliance on incomplete information, and limiting consideration of options only to those that have worked in the past, or interpreting information only in a manner consistent with the preconception connected with the heuristic. Thus, heuristics may interfere with appropriate decision-making.

Q *What has DQ found in its reviews of favorable hearing level decisions?*

A Analysis suggests that most ALJs, SAAs and other agency adjudicators increased dispositional output in accordance with agency production goals; however, both random and focused reviews of favorable hearing decisions strongly suggest that some decision-makers rely on heuristics that are not compliant with the current law, regulations and policies of the agency. Thus, we see that some decisions are not supported by substantial evidence.

Q *What is the goal of focused quality reviews?*

A I believe that nearly all ALJs are conscientious in deciding cases and want to do a good job. Our ALJs have quasi-judicial independence, which prohibits the agency from telling ALJs whether to find a claimant disabled or not disabled. Our ALJs are professionals, ready to take self-corrective action when they receive appropriate feedback and consistent messaging regarding quality. We believe the information obtained through DQ analyses will provide valuable insights in development of analytical tools and training the agency can provide to improve disability adjudication and ensure that its adjudicators fairly administer the disability program.

**Fiscal Year 2011
Final Actions Report
Division of Quality**

Permanent Subcommittee on Investigations

EXHIBIT #22

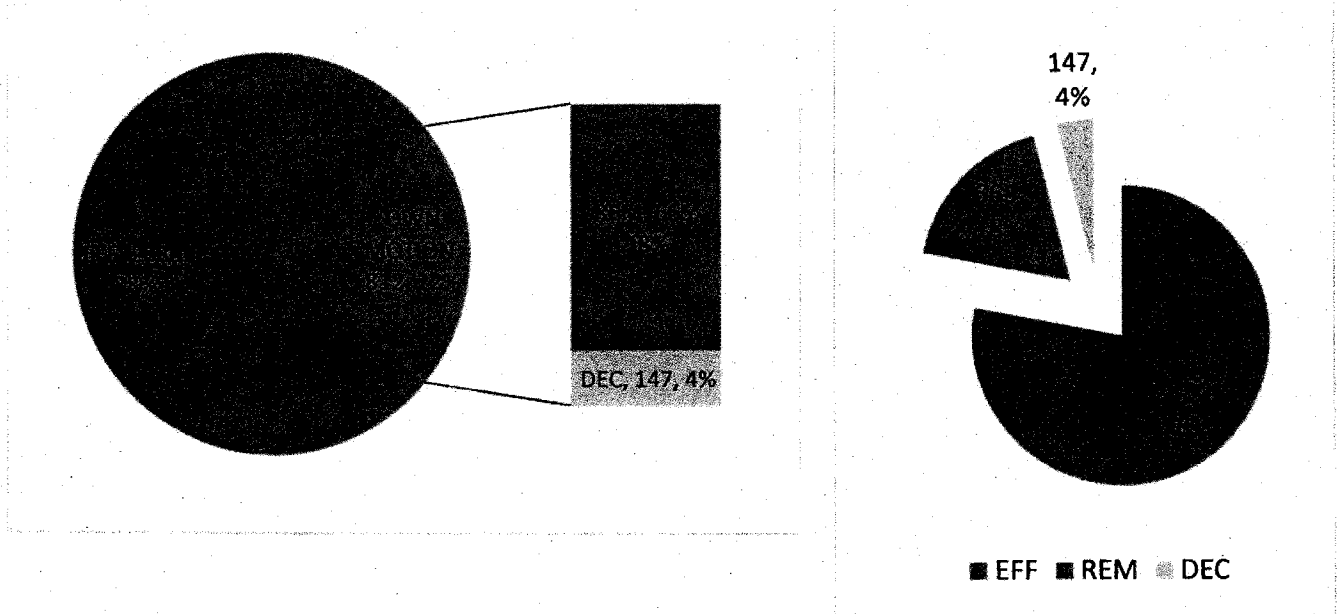
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Overview of all Final Actions

The Division of Quality closed a total of 3692 cases initiated in fiscal year 2011. Of those cases, 3564 became final by the end of fiscal year 2012, and 128 closed in fiscal year 2012. The Council effectuated 2,880 cases (no action taken), remanded 665 cases, and issued a decision on 147 cases.

	Own Motion			OM Total	Total Cases
	EFF	REM	DEC		
# Cases	2880	665	147	812	3692
Overall Proportion	78%	18%	4%	22%	

Breakout of Disposition Type

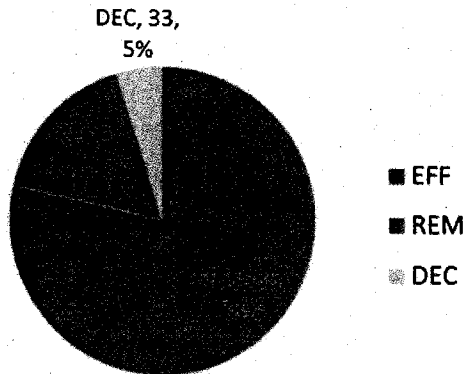


Decisions By Sequential Evaluation Step

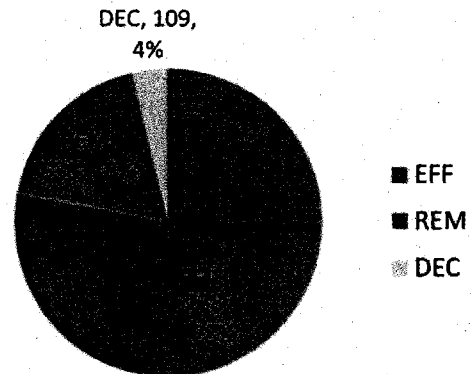
A total of 3616 cases (98% of the 3692 decisions reviewed) were decided at either step 3 or step 5 of the sequential evaluation process. The Council effectuated 78% of the cases at both steps.

	Own Motion			Total
	EFF	REM	DEC	
Step 3	535	114	33	682
% total Step 3	78%	17%	5%	100%
Step 5	2287	538	109	2934
% total Step 5	78%	18%	4%	100%

**Decisions Made at Step 3
by AC Outcome**



**Decisions Made at Step 5
by AC Outcome**

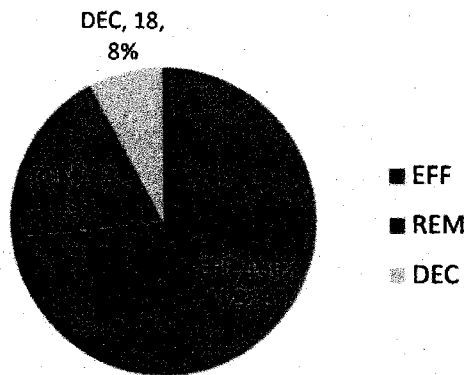


Decisions By Type (OTR vs. Bench)

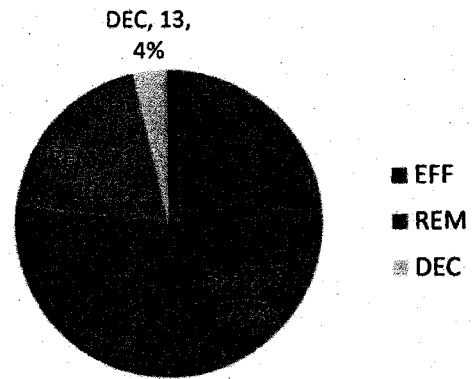
A total of 592 decisions (16% of the 3692 decisions reviewed) were either decided on the record (6%) or issued as a bench decision (10%). The Council took own motion on 27% of the decisions issued on the record and on 23% of the bench decisions.

	Own Motion			Total
	EFF	REM	DEC	
OTR	166	43	18	227
% OTR	73%	19%	8%	100%
Bench	281	71	13	365
% Bench	77%	19%	4%	100%

**On the Record Decisions
by AC Outcome**



**Bench Decisions
by AC Outcome**

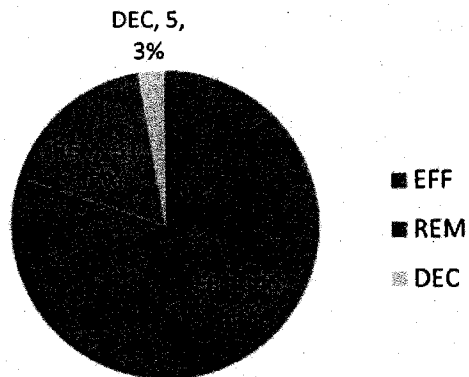


Child SSI Decisions

The Council reviewed a total of 181 (5% of the 3692 decisions reviewed) child supplemental security income decisions and took own motion on 36 (20%) of them.

	Own Motion			Total
	EFF	REM	DEC	
Child SSI	145	31	5	181
% Child SSI	80%	17%	3%	100%

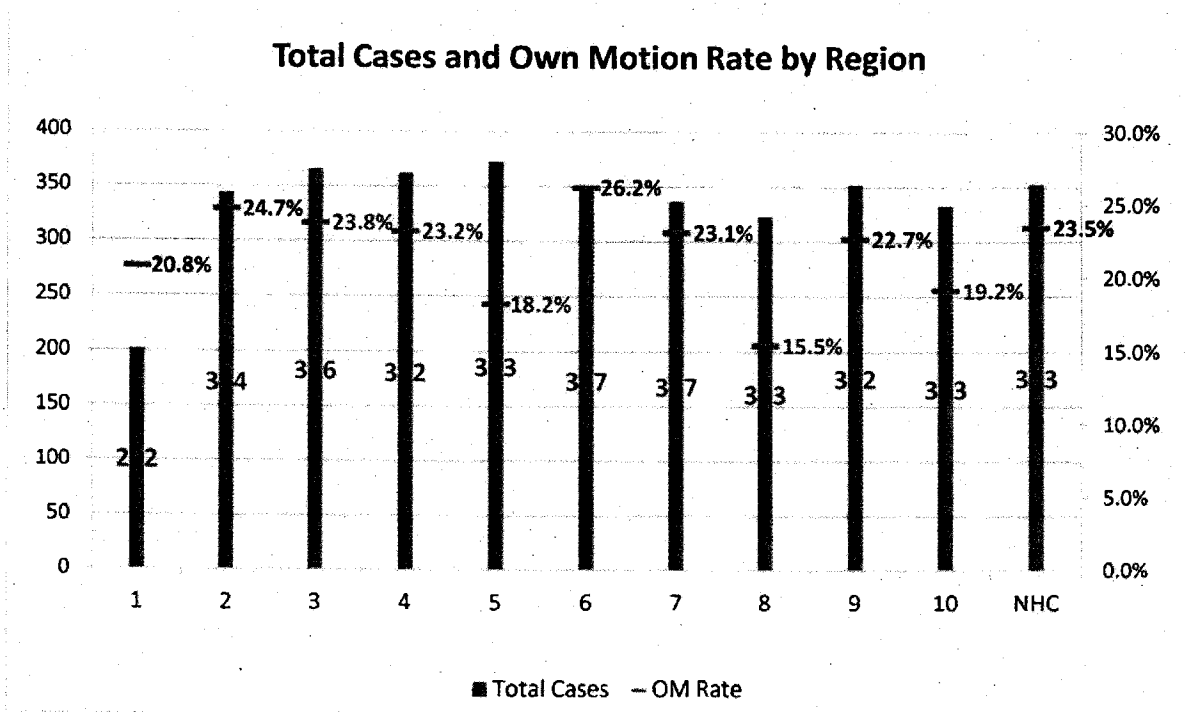
Child SSI Decisions
by AC Outcome



Own Motion Rate by Region

As stated above, the Council took own motion on 22% of the 3692 decisions reviewed. The regional own motion rate ranged from 15.5% (Region 8) to 26.2% (Region 6), with an average rate of 22% and an overall rate of 22%.

Region	Own Motion			OM Rate	Total Cases
	EFF	REM	DEC		
1	160	34	8	20.8%	202
2	259	75	10	24.7%	344
3	279	72	15	23.8%	366
4	278	72	12	23.2%	362
5	305	57	11	18.2%	373
6	256	77	14	26.2%	347
7	259	61	17	23.1%	337
8	273	39	11	15.5%	323
9	272	60	20	22.7%	352
10	269	53	11	19.2%	333
NHC	270	65	18	23.5%	353
Total	2880	665	147	22.0%	3692



Regional Own Motion Rate by Adjudicator

Of the 3692 decisions reviewed by the Council, 3164 (86%) were issued by an Administrative Law Judge (ALJ) and 528 (14%) were issued by an attorney advisor (AA). The own motion rate for AA decisions was 24.6% versus 21.6% for ALJ decisions. The own motion rate for ALJ decisions varied from 14.3% (Region 8) to 25.8% (Region 6). The own motion rate for AA decisions varied from 15.5% (Region 3) to 30.8% (Region 5).

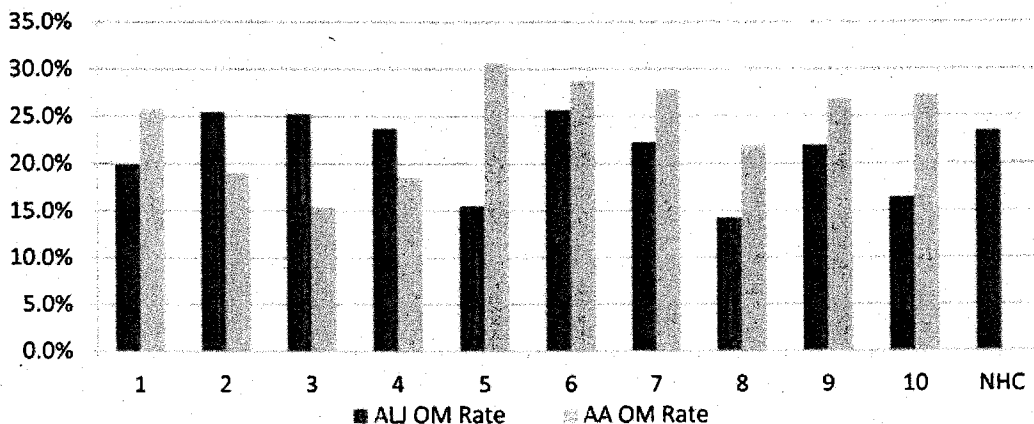
ALJ Decisions by Region and AC Action

Region	OM			OM Rate	Total Cases
	EFF	REM	DEC		
1	140	28	7	20.0%	175
2	221	66	10	25.6%	297
3	230	63	15	25.3%	308
4	243	64	12	23.8%	319
5	260	38	10	15.6%	308
6	219	63	13	25.8%	295
7	223	50	14	22.3%	287
8	234	30	9	14.3%	273
9	234	48	18	22.0%	300
10	208	31	10	16.5%	249
NHC	270	65	18	23.5%	353
Total	2482	546	136	21.6%	3164

AA Decisions by Region and AC Action

Region	OM			OM Rate	Total Cases
	EFF	REM	DEC		
1	20	6	1	25.9%	27
2	38	9	0	19.1%	47
3	49	9	0	15.5%	58
4	35	8	0	18.6%	43
5	45	19	1	30.8%	65
6	37	14	1	28.8%	52
7	36	11	3	28.0%	50
8	39	9	2	22.0%	50
9	38	12	2	26.9%	52
10	61	22	1	27.4%	84
Total	398	119	11	24.6%	528

ALJ vs. AA Own Motion Rates by Region



Nature of Decisions Issued by the AC

As stated above, the Council issued a decision on 147 (4%) of the 3692 cases reviewed by the Council. The Council issued a less favorable decision in 28% of the decisions. In 22% of the decisions, the Council changed the basis of the disability finding, but not the overall outcome. The Council reopened a prior determination or decision in 21% of the decisions.

Type of Decision	#	%
Reopened prior determination or decision (onset date invaded prior period)	31	21%
Changed the basis, but not the outcome, of the decision	32	22%
Found an earlier onset date	14	10%
Other favorable decisions	10	7%
Upheld determination or decision after receipt of further information (SGA)	7	5%
Corrected errors in onset and application dates	7	5%
Issued less favorable decision	41	28%
Issued fully unfavorable decision	5	3%
Total:	147	

Reasons Cited for QRB Remands, FY2012

Cited Remand Reason	Times Cited	% of Total
SGA	63	3.8%
Employee - Income Calculation	1	0.1%
Employee - Unsuccessful Work Attempt	2	0.1%
Employee - Other	2	0.1%
Income - Further Development	5	0.3%
Issues / Period Properly Before Alj Were Not Decided	1	0.1%
Self-Employed - Income Calculation	7	0.4%
Self-Employed - Other	3	0.2%
Self-Employed - Unsuccessful Work Attempt	1	0.1%
SGA - Consideration Of Entitlement To Twp / Epe	2	0.1%
SGA - Consideration Of Uwa And / Or Irwe, Etc.	4	0.2%
SGA - Evaluation Of Employee Criteria	2	0.1%
SGA Evaluation Of Self - Employment Criteria	7	0.4%
SGA - Unexplained Earnings After Eod	26	1.6%
Severe/ Non-Severe	130	7.8%
Cardiovascular Impairment Not Adequately Considered	5	0.3%
Combination Of Impairments Not Considered	7	0.4%
Endocrine System Impairment Not Adequately Considered	1	0.1%
Genitourinary Impairment Not Adequately Considered	1	0.1%
Impairment Improperly Found "Not Severe"	11	0.7%
Mental Disorder Not Adequately Considered	40	2.4%
Multiple Body Systems Impairment Not Adequately Considered	1	0.1%
Musculoskeletal Impairment Not Adequately Considered	17	1.0%
Neurological Impairment Not Adequately Considered	2	0.1%
Obesity Impairment Not Adequately Considered	8	0.5%
Other	35	2.1%
Special Senses And Speech Not Adequately Considered	2	0.1%
Adult Listings	115	6.9%
Listing 1.00 - Not Adequately Addressed Or Evaluated	27	1.6%
Listing 11.00 - Not Adequately Addressed Or Evaluated	4	0.2%
Listing 12.00 - Insufficient Articulation Of "B" Or "C" Criteria	15	0.9%
Listing 12.00 - Not Adequately Addressed Or Evaluated	49	2.9%
Listing 14.00 - Not Adequately Addressed Or Evaluated	1	0.1%
Listing 2.00 - Not Adequately Addressed Or Evaluated	2	0.1%
Listing 3.00 - Not Adequately Addressed Or Evaluated	4	0.2%
Listing 4.00 - Not Adequately Addressed Or Evaluated	1	0.1%
Listing 9.00 - Not Adequately Addressed Or Evaluated	3	0.2%
Other Adult Listings Issue	9	0.5%

Reasons Cited for QRB Remands (cont'd)

Cited Remand Reason	Times Cited	% of Total
Child Listings	14	0.8%
Listing 100.00 - Not Adequately Addressed Or Evaluated	2	0.1%
Other Child Listings Issue	12	0.7%
Credibility Evaluation	142	8.5%
Claimant Credibility - Failed To Acknowledge Unavailability Of Treatment	2	0.1%
Claimant Credibility - Failed To Discuss Appropriate Credibility Factors	97	6.8%
Claimant Credibility - Other Issue	35	2.1%
Third Party Credibility - Finding Not Made	2	0.1%
Third Party Credibility - Inadequate Rationale For Finding	6	0.4%
Opinion Evidence Evaluation & RFC	779	46.6%
Consultative Examiner - Opinion Not Identified Or Discussed	31	1.9%
Consultative Examiner - Opinion Rejected Without Adequate Articulation	20	1.2%
Consultative Examiner - Recontact Necessary	5	0.3%
Consultative Examiner - Weight Accorded Opinion Not Specified	5	0.3%
Non-Examining Source - Opinion Not Identified Or Discussed	11	0.7%
Non-Examining Source - Opinion Rejected Without Adequate Articulation	28	1.7%
Non-Examining Source - Weight Accorded Opinion Not Specified	1	0.1%
Non-Medical Source - Opinion Not Identified Or Discussed	2	0.1%
Non-Medical Source - Opinion On Issue Reserved To Agency	1	0.1%
Rfc - Effects Of Combination Of Impairments Inadequately Evaluated	48	2.9%
Rfc - Exertional Limitations Inadequately Evaluated	213	13.2%
Rfc - Mental Limitations Inadequately Evaluated	163	9.9%
Rfc - Non-Mental Non-Exertional Limitations Inadequately Evaluated	71	4.3%
Rfc - Other	76	4.5%
Treating Source - Opinion Not Identified Or Discussed	22	1.3%
Treating Source - Opinion On Issue Reserved To Agency	5	0.3%
Treating Source - Opinion Rejected Without Adequate Articulation	13	0.8%
Treating Source - Recontact Necessary	61	3.6%
Treating Source - Weight Accorded Opinion Not Specified	3	0.2%
Past Relevant Work	31	1.9%
Function By Function Analysis Not Adequately Articulated	9	0.5%
Other	22	1.3%

Reasons Cited for QRB Remands (cont'd)

Cited Remand Reason	Times Cited	% of Total
Grid/Vocational Expert	118	7.1%
Misapplied Framework - Improperly Considered Non-Exertional Limitations	4	0.2%
Misapplied Framework - Improperly Considered Skill Level / Transferability	11	0.7%
Misapplied Framework - Other	5	0.3%
Misapplied Framework - Reliance On Ssr Was Incorrect Or Incomplete	1	0.1%
Misapplied Grid Rule - Improperly Considered Age Category	2	0.1%
Misapplied Grid Rule - Improperly Considered Education / Literacy	2	0.1%
Misapplied Grid Rule - Improperly Considered Non-Exertional Limitations	2	0.1%
Misapplied Grid Rule - Improperly Considered Skill Level / Transferability	17	1.0%
Misapplied Grid Rule - Other	2	0.1%
Miscellaneous - Decision Mischaracterizes Hypo Or VE Response To Hypo	4	0.2%
Miscellaneous - Other	4	0.2%
Miscellaneous - VE And DOT Not Reconciled	4	0.2%
Miscellaneous - VE Evidence Not Addressed In Hearing Decision	1	0.1%
VE Hypo - Other	4	0.2%
VE Hypo Did Not Encompass All Impairment	2	0.1%
VE Hypo Inconsistent With Exertional RFC Established	3	0.2%
VE Hypo Inconsistent With Mental RFC Established	1	0.1%
VE Not Obtained - Manipulation Limitations Warrant VE Evidence	7	0.4%
VE Not Obtained - Mental Limitations Warrant VE Evidence	6	0.4%
VE Not Obtained - Other	34	2.0%
VE Not Obtained - Postural Limitations Warrant VE Evidence	2	0.1%
Dismissal/ Procedural	12	0.7%
Other	11	0.7%
Res Judicata Dismissal	1	0.1%
Misc.	268	16.0%
Acquiescence Ruling Improperly Or Not Applied	3	0.2%
ALJ Misconduct / Unfair Hearing	1	0.1%
Drug Or Alcohol Abuse - Da / A As Material Factor To Disability	30	1.8%
Drug Or Alcohol Abuse - Insufficient Articulation Of Da / A Rationale	84	5.0%
Drug Or Alcohol Abuse - No Finding Of Disability	2	0.1%
Incomplete / Inaccurate Record - Lost / Inaudible Recording	2	0.1%
Incomplete / Inaccurate Record - Lost Record / Evidence	1	0.1%
Incomplete / Inaccurate Record - Record Inadequately Developed	62	3.7%
New Evidence Presented Upon Administrative Appeal / Review	2	0.1%
Non-Disability Issues	1	0.1%
Onset Date / Closed Period / CDR	62	3.7%
Other	18	1.1%
Grand Total	1,672	100%