



SOCIAL SECURITY ADMINISTRATION

Refer To: [REDACTED]

Office of Disability Adjudication and Review
SSA ODAR Hearing Ofc
Suite 200
1232 Premier Drive
Chattanooga, TN 37421-3707

Date: July 18, 2014

[REDACTED]
[REDACTED]
[REDACTED]

Notice of Decision – Fully Favorable

I carefully reviewed the facts of your case and made the enclosed fully favorable decision. Please read this notice and my decision.

Another office will process my decision. 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).

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. They may decide to review my decision within 60 days after the date of the decision. The Appeals Council will mail you a notice of review if they decide to review my decision.

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)964-1006. Its address is:

Social Security
480 Riverside Pkwy NE
Rome, GA 30161-2942

John E. Case
Administrative Law Judge

Enclosures:

Form HA-L15 (Fee Agreement Approval)
Decision Rationale

cc: Jonathan Ginsberg
Ginsberg Law Offices
1854 Independence Sq.
Suite A
Atlanta, GA 30338

ORDER OF ADMINISTRATIVE LAW JUDGE

CLAIM FOR

Period of Disability and Disability Insurance Benefits

(Wage Earner)

(Social Security Number)

YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW

Ollie Garmon
Regional Chief Administrative Law Judge
SSA ODAR
61 Forsyth Street SW
Suite 20T10
Atlanta, GA 30303

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

/s/ John E. Case

John E. Case
Administrative Law Judge

July 18, 2014

Date _____

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

DECISION

IN THE CASE OF

[REDACTED]
(Claimant)

[REDACTED]
(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance
Benefits

[REDACTED]
(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before me on a request for hearing filed October 12, 2012 (20 CFR 404.929 *et seq.*). On July 10, 2014, I held a video hearing (20 CFR 404.936(c)). The claimant appeared in Rome, Georgia, and I presided over the hearing from Chattanooga, Tennessee. Benjamin Johnston, PhD, an impartial vocational expert, also appeared at the hearing. The claimant is represented by Jonathan Ginsberg, an attorney.

The claimant is alleging disability since March 23, 2011.

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, 2016. 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, I find that the claimant has been disabled from March 23, 2011, through the date of this decision. I also find 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

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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, I 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, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, I 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, I must determine whether the claimant's impairment or combination of impairments is of a severity to meet or medically equal 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 is of a severity to meet or medically equal 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, I 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, I 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, I 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)). 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 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)), I 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, I make the following findings:

1. The claimant's date last insured is December 31, 2016.
2. The claimant has not engaged in substantial gainful activity since March 23, 2011, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).
3. The claimant has the following severe impairments: Lumbar disk disease with stenosis and spurring; degenerative changes of the left knee; urinary incontinence; and a mood disorder due to numerous physical anomalies (20 CFR 404.1520(c)).

The claimant presented to Alan [REDACTED] M.D., in January 2011, with complaints of left knee pain without much swelling (Exhibit 4F, pp. 9 and 11). Examination of the left knee demonstrated a large varicose vein immediately over the anterolateral aspect of the left knee. Additionally, the claimant had some crepitus with range of motion; patella signs were positive; and her ligaments were stable. Further, there was no effusion and the extensor mechanism seemed to be intact. X-rays of the left knee demonstrate some spurring with degenerative changes, especially in the patellofemoral articulation. Dr. [REDACTED] impressions were degenerative arthritis of the left knee, greatest in the patellofemoral articulation, resulting in chronic left knee pain.

The claimant presented to Charles [REDACTED] M.D., in April 2011, with a mildly depressed mood (Exhibit 2F). On examination, the claimant was alert and oriented times four spheres with a normal gait. Further examination revealed tenderness in the lumbosacral region with a 5/5 strength in the lower extremities in all muscle groups. In addition, her sensory was intact in the lower extremities; reflexes were two plus and symmetrical in the lower extremities; and she exhibited a negative straight leg raise. X-rays showed narrowing at the L4-5 and L5-S1 disc space levels. Dr. [REDACTED] assessed low back pain with associated bilateral radiculopathy. Physical therapy was recommended and medications were prescribed.

In February 2014, the claimant presented to Forrest [REDACTED] III, M.D., with complaints of mixed urinary incontinence (Exhibit 25F, pp. 4 and 5). She reported having stress incontinence leaking with coughing, sneezing, and stress maneuvers. The claimant also reported having poor bladder emptying with feelings of having to strain in order to empty her bladder. However, Dr. [REDACTED] ordered a UDS that failed to demonstrate leakage, but showed low detrusor voiding pressures. Dr. [REDACTED] noted having an honest discussion with the claimant about treatment options, including placement of a sling.

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

5. The claimant has the residual functional capacity to perform less than the full range of light work, as defined in 20 CFR 404.1567(b), with difficulty initiating, pacing herself, and completing activities due to pain related concerns and rapid cycling mood states.

I find the combination of the claimant's severe physical and mental impairments erodes her capacity to sustain an acceptable level of persistence, attendance, and attention to complete even unskilled light work on a regular and continuing basis. The record shows abnormalities on clinical and objective findings, which can be expected to cause the reported level of symptomatology and functional limitations alleged by the claimant, including severe, chronic low back pain, left knee pain, urinary incontinence, and mood disorder due to numerous

physical problems, which can be expected to compromise her ability to sustain adequate functioning for eight hours a day, five days a week, or an equivalent work schedule. Thus, I find the claimant is unable to perform even unskilled light work on a regular and continuing basis.

I find the totality of the evidence, including the claimant's testimony at the hearing, credible and support a finding that the claimant's severe, chronic low back pain, left knee pain, urinary incontinence, and mood disorder preclude sustained work for even unskilled light work activity on a regular and continuing basis.

I afford some weight to the opinion of Dr. [REDACTED] whose opinion indicates the claimant is able to comprehend simple to complex instructions, but could have difficulty initiating, pacing, and completing activities consistently due to her pain related concerns and rapid cycling mood states.

The State agency medical consultants' physical assessments and psychological consultants' mental assessments are not given significant 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).

The demands of the claimant's past relevant work exceed her current 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, I 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).

Even if the claimant had the residual functional capacity for the full range of light work, a finding of "disabled" would be directed by Medical-Vocational Rule 202.06.

11. The claimant has been under a disability as defined in the Social Security Act since March 23, 2011, the alleged onset date of disability (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on October 12, 2011, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since March 23, 2011.

/s/ John E. Case

John E. Case
Administrative Law Judge

July 18, 2014

Date