



Refer To: [REDACTED]

Atlanta Office of Hearings and Appeals
Atlanta Federal Center
60 Forsyth Street, S.W., Suite 2M15
Atlanta, GA 30303
Telephone: (404)562-5570

Date: **JAN 16 2002**

Deborah D. G [REDACTED]
585 Parkway NE
Suite 231
Atlanta, GA 30324



NOTICE OF DECISION – PARTIALLY FAVORABLE

I have made the enclosed decision in your case. Please read this notice and the decision carefully.

This Decision is Partially 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

If you believe my decision is not appropriately 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 Hearings and Appeals, 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 (404)331-4155. Its address is 55 Marietta Street (0600), Fourth Floor, Atlanta GA 30303.



William L. Akers
Administrative Law Judge

cc: Johnathan Ginsburg
PO BOX 88156
Atlanta, GA 30356

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

ORDER

IN THE CASE OF

CLAIM FOR

Deborah D. [REDACTED]

(Claimant)

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

(Wage Earner)

[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 excepted. I neither approve nor disapprove any other aspect of the agreement.



William L. Akers
Administrative Law Judge

JAN 16 2002

Date

**SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals**

DECISION

IN THE CASE OF

CLAIM FOR

(Claimant)

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

(Wage Earner)

(Social Security Number)

INTRODUCTION

On January 13, 2000, the claimant filed applications for Disability Insurance Benefits and Supplemental Security Income payments. Both claims were denied initially and on reconsideration, and a request for hearing was timely filed on March 21, 2001. A hearing was subsequently held on December 4, 2001 in Atlanta, Georgia. The claimant appeared and offered testimony at the hearing. The claimant alleges disability beginning December 11, 1999 due to mental problems. Jonathan Ginsburg represents the claimant in this matter.

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, and whether she is disabled under section 1614(a)(3)(A) of the Social Security Act. The specific issue is whether she 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.

With respect to the claim for Disability Insurance Benefits, there is an additional issue pertaining to insured status. A review of the claimant's earnings record reveals that she has earned sufficient quarters of coverage to remain insured at least through the date of this decision.

EVALUATION OF THE EVIDENCE

The claimant is a 40-year-old individual with a 12th grade education and past relevant work as a cashier and stock clerk. Despite a claimed onset date in 1999 and although she claimed to only

work "part-time", Claimant earned \$6,000 in the first half of 2000, Ex.5D/11. I find she earned at a level above "Substantial gainful activity" until July 1, 2000.

The claimant has the following medically determinable severe impairments: anxiety and panic disorders. Her medical evidence demonstrates that she has been treated for anxiety stress disorder since 1994. She has reported feelings of anxiety and depression as well as feelings of being uncomfortable (Ex. 2F; 3F). A medical statement from the Georgia Department of Human Resources dated November 5, 2001 indicated that the claimant was not able to work due to panic attacks. She is on medications with some improvements, but that she was not expected to return to work due to her mental disorder (Ex. 16F). I give no weight to Ex 17 which is not the report of a physician.

Dr. John Muller conducted a psychological evaluation of the claimant on May 3, 2000. She was administered the Weschler Adult Intelligence Scale -3rd edition test. She obtained a Full Scale IQ of 83, which suggested that claimant functioned in the low average range of intelligence. He diagnosed her with atypical anxiety disorder and noted that she has limited social skills. He also reported that she is easily frustrated (Ex. 7F).
Dr. Prince, a psychiatrist, also examined the claimant. He reported her as unable to handle stress or interact with supervisors, Ex 13F.

The claimant does not have an impairment that meets or equals the criteria of any listed impairment. A determination must therefore be made of whether she retains the residual functional capacity to perform the requirements of her past relevant work or can adjust to other work.

Her record indicates that she can not handle the stresses of work or respond appropriately to supervision. She continues to have limited social skills and is easily frustrated and has continued bouts of anxiety and panic attacks despite medical intervention. In reaching this conclusion, I feel bound by the "experts". Claimant's presentation during the hearing gave no indication of disability. She described herself as working for a while and then, "I wig out". I did not get the impression that "wiggling out" is beyond her control. Rather, my impression is that she consciously avoids working up to an acceptable standard. She lacks any credibility. After testifying that she quit one job because she couldn't lift an automobile battery, she said she then took a job mowing lawns and another requiring her to climb onto a roof! She stated she has been mentally impaired for many years, but has worked. When asked what happened that made her unable to work now, she had no answer. She did not say that her condition deteriorated either gradually or traumatically. She applied for disability while earning at the rate of \$1000.00 a month. This view is supported by the reports of the state agency medical consultants, Ex 9F, 10F, 11F. It is not that I don't think she has panic attacks, but I think they are infrequent and can be controlled sufficiently for most work within her experience.
Nevertheless, the greater weight is required to be given to those qualified physicians and "experts" who have actually seen and examined the claimant, *Spencer v. Heckler*, 765F.2d 1090. I find her "disabled based on the reports of Dr. Prince and Dr. Muller. There is a record of psychiatric treatment, 16F, 17F. I find her disabled. However, it obvious that she was not disabled in 1999 nor during the first half of 2000.

In her former work as a cashier and stock clerk, the claimant was required to work around the public and to handle a certain amount of work stress. The medical records indicate that due to her mental disorders, the claimant cannot handle the stress of her past relevant work.

Born March 28, 1961, the claimant was 38 years old on December 11, 1999. For the purpose of this decision, she is considered to be a younger individual age 18-44. She has a high school education and has a semi-skilled work background.

Since the record supports that the claimant cannot handle the stresses of work or respond appropriately to supervision due to anxiety and panic disorder, a finding of "disabled" is based on SSR 85-15.

In accordance with a finding that the claimant has been under a disability beginning July 1, 2000, she is entitled to Disability Insurance Benefits on the basis of her application of January 13, 2000 and eligible for Supplemental Security Income payments by virtue of her application of January 13, 2000.

FINDINGS

After careful consideration of the entire record, the Administrative Law Judge makes the following findings:

1. The claimant has not engaged in substantial gainful activity since July 1, 2000.
2. The medical evidence establishes that the claimant has the following severe impairments: anxiety and panic disorders.
3. The claimant has no impairment that meets or equals the criteria of any impairment listed in Appendix 1, Subpart P, Regulations No. 4.
4. The claimant's assertions concerning her ability to work are not credible.
5. The claimant lacks the residual functional capacity to perform any competitive employment.
6. The claimant is unable to perform the requirements of her past relevant work.
7. On December 11, 1999, the claimant was a younger individual age 18-44.
8. The claimant has a high school education.
9. The claimant has a semi-skilled work background.
10. Considering the claimant's additional limitations, she cannot make an adjustment to any work that exists in significant numbers in the national economy; a finding of disabled is therefore reached within the framework of SSR 85-15

11. The claimant has been under a disability, as defined in the Social Security Act, since July 1, 2000. (20 CFR §§404.1520(f) and 416.920(f)).

DECISION

It is the decision of the Administrative Law Judge that, based on the application filed on January 13, 2000, the claimant is entitled to a period of disability commencing July 1, 2000 and to Disability Insurance Benefits under sections 216(i) and 223, respectively, of the Social Security Act.

It is the further decision of the Administrative Law Judge that, based on the application filed on January 13, 2000, the claimant was disabled under section 1614(a)(3)(A) of the Social Security Act, beginning July 1, 2000, and that the claimant's disability has continued at least through the date of this decision.

The component of the Social Security Administration responsible for authorizing Supplemental Security Income payments will advise the claimant regarding the non-disability requirements for these payments, and if eligible, the amount and the months for which payment will be made.

The undersigned recommends review of this case in 24 months.



William L. Akers
Administrative Law Judge

JAN 16 2002

Date