

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, 2013.**
- 2. The claimant has not engaged in substantial gainful activity since March 20, 2006, 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 impairments: congestive heart failure, ischemic heart disease with history of heart attack, essential hypertension, and diabetes mellitus (20 CFR 404.1520(c) and 416.920(c)).**

These impairments are established by the medical evidence of record and are "severe" within the meaning of the regulations because they significantly limit 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), 404.1525, 404.1526, 416.920(d), 416.925 and 416.926).**

In reaching the conclusion that no physical listing is met or equaled, the undersigned reviewed the appropriate listings and finds the claimant's condition does not approach the severity to be *determined disabled by meeting any listing in Appendix 1, Subpart P, Regulations No. 4, either individually or in combination.* Further, no treating, examining, or nonexamining physician has noted any finding equivalent in severity to any listed impairment.

- 5. The claimant does not have the residual functional capacity to perform a significant number of jobs at the sedentary or even the less than sedentary level of exertion work as defined in 20 CFR 404.1567(a) and 416.967(a) on a sustained five days per week, eight hours per day basis by reason of chronic fatigue and shortness of breath.**

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.

Susan Yandle, MD, an independent medical examiner, performed a consultative physical examination of the claimant on May 15, 2009. On examination, the claimant was six feet one inch tall and weighed 325 pounds. The claimant's blood pressure was 178/120 measured with the appropriate sized cuff. Dr. Yandle offered the medical source opinion that the claimant is markedly limited in performing any activities requiring exertion including standing, walking, climbing stairs, or lifting. Great weight is given this examining source opinion evidence because it is well supported by the record as a whole (Exhibit 3F).

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. 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 March 20, 2006, 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 25, 2009, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since March 20, 2006.

Based on the application for supplemental security income filed on March 25, 2009, the claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since March 20, 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 the claimant is 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.