

DISABILITY HEARING OFFICER'S DECISION
(DIB, CDB, DWB (Including surviving divorced spouse), DI, DS)

NUMBER HOLDER'S SSN

Determination of Disability

1. The Social Security regulations require that a person's disability be determined through a series of evaluation steps. The first step for benefits under title II of the Social Security Act (the Act) is to determine whether or not the person is presently engaging in substantial gainful activity (20 CFR 404.1520(b)). This decision was made by the Social Security office before the disability hearing decision was issued. The decision was:

- You are not engaging in substantial gainful activity.
- You are engaging in substantial gainful activity but may be entitled to an extended period of eligibility as described in 20 CFR 404.1592a.

NOTE: Performance of substantial gainful activity is no longer a basis for finding that a period of disability has ended under title XVI of the Act.

In making the determination of disability, the hearing officer will review the remaining evaluation steps. Depending upon the evaluation of the evidence, the hearing officer may make a determination regarding the claimant's disability at various steps during the review.

2. Does claimant's impairment(s) meet or equal a current listed impairment? YES NO

The hearing officer will determine whether the impairment meets or equals an impairment in the Listing of Impairments in the Social Security regulations. The listing contains many medical impairments which would normally prevent a person from doing any gainful activity. If a person's impairment(s) meets or equals an impairment in the listing, he/she will be found disabled. If the impairment does not, the hearing officer will continue to the next review step. (20 CFR 404.1594; 20 CFR 416.994 (b))

Explain _____

3. Has there been medical improvement of claimant's impairment(s) since the comparison point decision? YES NO

The comparison point decision (CPD) is the most recent prior favorable medical decision that the person was disabled or continued to be disabled. Medical improvement is defined as any decrease in the medical severity (as shown by changes in the signs, symptoms and/or laboratory findings) of the impairment(s) which was present at the CPD (20 CFR 404.1594; 20 CFR 416.994(b)). If medical improvement has occurred, the hearing officer will continue to the next review step (step 4). However, if there has been no medical improvement, the next step will be step 5.

Explain _____

4. If there has been medical improvement, is it related to the ability to do work? YES NO

If a person's impairment(s) met or equalled the listing of impairments in effect at the CPD, the hearing officer will determine (considering only the impairment(s) present at the time of the CPD) whether that same listing, as it then appeared, continues to be met or equalled. If that listing is no longer met or equalled, medical improvement will be determined to be related to the ability to do work. If the CPD was based on medical/vocational considerations, the hearing officer will determine (considering only the impairment(s) present at the time of the CPD) the person's current residual functional capacity (RFC) and determine whether there has been an increase (improvement) in the person's RFC since the time of the CPD. 'Residual functional capacity' refers to those basic work activities a person can do despite his/her impairment(s). If there has been an increase in RFC, medical improvement will be determined to be related to the ability to work. If medical improvement is not related to the ability to do work, the hearing officer will continue to the next review step (step 5). However, if medical improvement is related to the ability to do work, the next review step will be step 6. (20 CFR 404.1594; 20 CFR 416.994(b))

Explain _____

5. If there has been no medical improvement or medical improvement has occurred which is not related to the ability to do work, do any of the exceptions to the medical improvement standard apply? YES NO

These exceptions are classified in 20 CFR 404.1594; 20 CFR 416.994(b). If none of the exceptions applies, the person will be found disabled. If an exception does apply, the hearing officer will continue to the next review step.

Explain _____

6. Does claimant have a severe impairment? YES NO

If a person's impairment(s) is a slight abnormality or a combination of slight abnormalities which has no more than a minimal effect on a person's ability to do basic work activities, the hearing officer will determine that the person does not have a severe impairment. Examples of work activities include walking, standing, sitting, lifting, carrying, pushing or handling. Also involved are capacities for seeing, hearing, speaking, understanding, and carrying out simple instructions. If medical improvement does not apply and the person does not have a severe impairment(s), he/she will be determined not to be disabled. If medical improvement applies and is shown to be related to the ability to work, the hearing officer will determine whether all current impairments, singly or in combination, are severe. (20 CFR 404.1520-1523, 1594; 20 CFR 416.920-923,994(b); SSR 85-28)

Explain _____

7. What is claimant's RFC based on all current impairments?

For the purpose of determining physical exertion requirements of work, jobs are classified as sedentary, light, medium, heavy and very heavy. (20 CFR 404.1545, 1567; 20 CFR 416.945, 967)

Explain

8. Does claimant's impairment(s) prevent him/her from doing past relevant work? —>

YES NO

Past relevant work refers to work that the claimant has done within the last 15 years, has done long enough to learn, and has done for profit or gain. If a person has the residual functional capacity to perform past relevant work, he/she will be considered not disabled. If he/she cannot do past relevant work, the hearing officer will continue to the next review step. (20 CFR 404.1561; 20 CFR 416.961)

Explain

9. Does claimant have a marginal education and work experience that is limited to arduous, unskilled physical labor? —>

YES NO

Generally, if a person has marginal education and work experience of 35 years or more of arduous, unskilled physical labor and the person is not working and cannot perform past work due to a severe impairment, he/she will be considered unable to do lighter work and the person will be considered disabled. If he/she does not meet all of these criteria, the hearing officer will continue to the next review step. (20 CFR 404.1562; 20 CFR 416.962)

Explain

10. Is claimant of advanced age with a limited education and no work experience or no recent and relevant work experience? —>

YES NO

Generally, a person of advanced age with no relevant work experience and a limited education or less will be considered disabled provided his/her impairment is severe. If all of these criteria are not met, the hearing will continue to the next review step. (SSR 82-63)

Explain

11. Does claimant's impairment(s) prevent him/her from doing other work? YES NO

a. If material, are claimant's skills transferable? YES NO

To what occupation(s) can claimant's skills be transferred?
 Explain _____

b. What is the vocational rule to be used? _____

12. What jobs can claimant do if the claimant's vocational factors do not coincide with a vocational rule and if a determination is being made that claimant is not disabled?

Explain _____

If a person cannot do past relevant work, it will be determined whether he/she can do "other" work (work that exists in significant numbers in the person's region or several other regions in the country.) To make this decision, the hearing officer considers the person's RFC, occupational base, age, education, and work experience (classified as unskilled, semi-skilled and skilled.) If the person's work experience indicates that the work was semi-skilled or skilled, the hearing officer will consider whether those skills are transferable, if relevant to the disability determination. To do this, the hearing officer will identify the acquired work skills and, if necessary, specify the occupations to which the acquired work skills are transferable. In deciding this review step, the hearing officer will refer to the medical/vocational guidelines (Appendix 2) of the Social Security regulations. If all the person's vocational factors do not coincide with a particular rule in the guidelines, the hearing officer will use these rules as a framework for deciding this step. If a person has the capacity to adjust to work other than what he/she has done in the past, the person will be found not disabled. (20 CFR 404.1560-1569; 20 CFR 416.960-969)

Explain _____