

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)	
)	OAH No. 12-0561-APA
X M. J)	DPA Case No.
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FAIR HEARING DECISION

I. Introduction

The issue in this case is whether Mr. X J qualifies for Interim Assistance benefits. The Division of Public Assistance (DPA or Division) denied Mr. J's application on the basis that Mr. J's impairments were not severe, did not meet the 12 month durational requirement, and did not preclude him from performing all work in the national economy.¹

This decision concludes that Mr. J suffers from severe mental and physical impairments and that some of his impairments satisfy the 12-month durational requirement. However, Mr. J's impairments do not meet or equal the applicable Social Security disability listings. As a result, Mr. J does not satisfy the Interim Assistance program's eligibility requirement that he be likely to be found disabled by the Social Security Administration.² The Division's decision denying Mr. J's application for Interim Assistance is therefore AFFIRMED.

II. Facts

A. Mr. J's Education and Vocational History

Mr. J has a tenth grade education and can speak and write English.³ His primary work has been as a laborer.⁴ He has not worked since 2008.⁵

B. Mr. J's Mental Impairments

Mr. J has a history of alcohol and cocaine abuse.⁶ He also has a history of depression, mood swings, and crying spells.⁷ The available medical records indicate that Mr. J has been diagnosed

¹ Exs. 5, 6.0. The Division's notice also stated that the Division found that Mr. J was not likely to be approved by the Social Security Administration (SSA) to receive Supplemental Security Income (SSI). *Id.*

² See 7 AAC 40.180(b)(1).

³ Ex. 3.9.

⁴ Exs. 3.7, 3.8.

⁵ Ex. 3.7; M J hearing testimony.

⁶ Exs. 3.25, A137,

⁷ Exs. A136, A137.

with and treated for depression since at least February 1998.⁸ Mr. J has been seen for his depression by general practitioners but he cannot afford to see a psychiatrist.⁹

C. Mr. J's Physical Impairments

Mr. J had gastrointestinal bleeding in February 2012.¹⁰ Mr. J has arthritis in his hands, arms, and knees,¹¹ and gets numbness in his lower right leg after small amounts of exercise.¹² At hearing Mr. J testified that his hands swell up sometimes, and that he can only walk about four blocks.¹³

D. Mr. J's Disability Claim

On March 23, 2012 Szilvia Salamon, M.D. completed the Division's Form AD-2 on behalf of Mr. J.¹⁴ Dr. Salamon diagnosed Mr. J as suffering from depression, gastritis due to H. Pylori, history of gastro-intestinal bleeding, hypertension, chronic occlusion of the right external iliac vein, and common femoral bypass graft.¹⁵ Dr. Salamon indicated that Mr. J was not expected to recover from these problems within 12 months.¹⁶

On April 3, 2012 Mr. J completed the Division's *Disability and Vocational Report*.¹⁷ On this form Mr. J reported that he suffered from depression and from extreme arthritis in his hands, elbows, and knees.¹⁸ He wrote that he felt as if people were walking on top of him and that he would cry suddenly for no apparent reason.¹⁹ He stated that he had difficulty getting out of bed in the morning due to body pain; that it was hard for him to write due to pain in his hands; that it was difficult for him to climb stairs; and that it was hard for him to stand or walk for any length of time.²⁰

E. Relevant Procedural History

⁸ Ex. A43.

⁹ X J hearing testimony.

¹⁰ Ex. 3.25. At this time Mr. J was diagnosed with gastritis, duodenitis, and diverticulitis, and also had polyps surgically removed from his colon (Ex. 3.24).

¹¹ Ex. 3.22.

¹² Ex. 3.20.

¹³ X J hearing testimony.

¹⁴ Exs. 3.3, 3.4, 3.29, 3.30.

¹⁵ Exs.3.4, 3.30. Dr. Salamon has also diagnosed Mr. J with depression and possible arthritis (Ex. 3.27).

¹⁶ Exs. 3.4, 3.30.

¹⁷ Exs. 3.5 - 3.10.

¹⁸ Ex. 3.5.

¹⁹ Ex. 3.5.

²⁰ Ex. 3.5.

Mr. J applied for Interim Assistance on March 6, 2012.²¹ On April 20, 2012 the Division denied Mr. J's application on the basis that (as indicated above) his impairments were not severe, did not meet the 12 month durational requirement, and did not preclude him from performing all work in the national economy.²² On May 3, 2012 Mr. J requested a hearing to contest the denial of his application.²³ Mr. J subsequently provided additional medical records, but these medical records did not cause the Division to change its eligibility determination.

Mr. J's hearing was held on July 31, 2012. Mr. J and his sister-in-law M J attended the hearing in person. Mr. J represented himself and testified on his own behalf. M J also testified on Mr. J's behalf. DPA Public Assistance Analyst Jeff Miller participated in the hearing by telephone and represented the Division. Laura Ladner, the Division's medical reviewer, participated in the hearing by telephone and testified on behalf of the Division. The record was closed at the conclusion of the July 31, 2012 hearing.

III. Discussion

A. The Three Step Interim Assistance Disability Determination Process

The Alaska Public Assistance program provides financial assistance to "aged, blind, or disabled needy [Alaska] resident[s]."²⁴ Applicants who are under the age of 65 years are required to apply and qualify for federal Supplemental Security Income (SSI) benefits.²⁵ Once an applicant is approved for federal Supplemental Security Income, he or she is then eligible to receive Adult Public Assistance benefits.²⁶

Interim Assistance is a monthly payment in the amount of \$280 provided by the State to Adult Public Assistance applicants while they are waiting for the Social Security Administration (SSA) to approve their Supplemental Security Income application.²⁷

²¹ Exs. 2, 4.

²² Exs. 5, 6.0. At hearing the DPA Hearing Representative testified that the Division's computer interface indicated that Mr. J's application for SSI was denied with an N-37 code (failure or refusal to submit to consultative examination). However, the Division's denial notices did not assert that Mr. J was denied Interim Assistance based on a failure to have an active application for Supplemental Security Income (SSI) pending with the Social Security Administration (SSA). Accordingly, the status of Mr. J's application for SSI is irrelevant to Mr. J's eligibility for Interim Assistance in the procedural context of this case.

²³ Ex. 6.1.

²⁴ AS 47.25.430.

²⁵ 7 AAC 40.170(a). Adult Public Assistance applicants whose income exceeds the Supplemental Security Income standards are not required to apply for Supplemental Security Income benefits. 7 AAC 40.170(a).

²⁶ 7 AAC 40.030(a); 7 AAC 40.170(a).

²⁷ 7 AAC 40.170(a) and (b); AS 47.25.455.

In order to qualify for Interim Assistance, the applicant must be “likely to be found disabled by the Social Security Administration.”²⁸ An Interim Assistance applicant has the burden of proving that he or she is likely to be found disabled by the SSA.²⁹

The SSA uses a five-step evaluation process in making its disability determinations.³⁰ Each step is considered in order, and if the SSA finds the applicant disabled at any step, it does not consider subsequent steps.³¹

The Division uses the first three steps of the SSA disability determination process in deciding whether an applicant qualifies for Interim Assistance.³² The first step looks at the applicant’s current work activity. If the applicant is performing “substantial gainful activity,” the applicant is not disabled.³³ If the applicant is not performing “substantial gainful activity,” it is necessary to proceed to step two.

The second step requires the evaluation of the severity and duration of the applicant’s impairment. Medical evidence, which consists of “signs, symptoms, and laboratory findings, not only [the applicant’s] statement of symptoms,” is required to establish an applicant’s impairment.³⁴ In order to be considered disabled, the impairment or combination of impairments must be severe³⁵ and must be expected to result in death or must have lasted or be expected to last at least 12 months.³⁶ If the impairment is not severe or does not meet the duration requirement, then the applicant is not disabled. If the impairment is severe and meets the duration requirement, then it is necessary to proceed to step three.

The third step requires the evaluation of whether the impairment meets or equals one of the listings adopted by the SSA.³⁷ If the impairment satisfies the criteria of one of the SSA's listings, the applicant is disabled³⁸ and qualifies for Interim Assistance. If the applicant’s impairment does

²⁸ 7 AAC 40.180(b)(1).

²⁹ A party who is seeking a change in the status quo has the burden of proof. *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). The normal standard of proof in an administrative proceeding, unless otherwise stated, is the preponderance of the evidence standard. *Amerada Hess Pipeline v. Alaska Public Utilities Comm’n*, 711 P.2d 1170, 1179 n.14 (Alaska 1986).

³⁰ 20 C.F.R. § 416.920

³¹ 20 C.F.R. § 416.920(a)(4).

³² See Commissioner’s Decision dated August 20, 2012 in OAH Case No. 12-0688-APA.

³³ 20 C.F.R. § 416.920(a)(4)(i).

³⁴ 20 C.F.R. § 416.908.

³⁵ A severe impairment is one that “significantly limits [a person’s] physical or mental ability to do basic work activities.” 20 C.F.R. § 416.920(c).

³⁶ 20 C.F.R. § 416.920(a)(4)(ii); 20 C.F.R. § 416.909.

³⁷ See 20 C.F.R. Pt. 404, Subpart P, Appendix 1 (hereafter “Appendix 1”).

³⁸ 20 C.F.R. § 416.920(a)(4)(iii) and (d).

not meet or equal the criteria of one of the SSA's listings, the applicant does not qualify for Interim Assistance.³⁹

B. Application of the Three-Step Analysis to This Case

1. Step 1 - Is the Applicant Engaged in Substantial Gainful Activity?

The first step of the disability analysis asks whether the applicant is performing “any substantial gainful activity.”⁴⁰ Mr. J asserts that he has not worked since 2008. The Division's Medical Reviewer testified at hearing that there was no evidence that Mr. J is currently engaged in substantial gainful activity, and that a case generally does not reach the Medical Reviewer (*i.e.*, does not proceed past the Eligibility Technician's review at a DPA field office) unless the Division agrees that the applicant is not working.⁴¹ Accordingly, Mr. J has proven that he is not currently engaged in substantial gainful activity and has satisfied Step 1 of the disability analysis.

2. Step 2(a) - Is the Severity Requirement Satisfied?

At step two of the sequential evaluation process, the adjudicator must determine which of the applicant's alleged impairments, if any, are “severe.”⁴² An impairment should be found to be “non-severe” only when the evidence establishes a “slight abnormality” that has “no more than a minimal effect” on an individual's ability to work.⁴³ The inquiry at Step 2 is “a de minimis screening device to dispose of groundless claims.”⁴⁴ If an adjudicator is unable to clearly determine the effect of an impairment or combination of impairments on the individual's ability to do basic work activities, the sequential evaluation should not end with the Step 2 “severity” evaluation.⁴⁵ Further, even if no single impairment is found to be severe under this lenient standard, each impairment must still be considered in combination with all other impairments to determine whether the combined effect of multiple impairments is medically severe.⁴⁶

³⁹ See Commissioner's Decision dated August 20, 2012 in OAH Case No. 12-0688-APA.

⁴⁰ 20 C.F.R. § 416.972 defines “substantial gainful activity” as work that (a) involves doing significant and productive physical or mental duties, and (b) is done (or intended) for pay or profit.

⁴¹ Laura Ladner hearing testimony.

⁴² 20 C.F.R. § 404.1521.

⁴³ *Social Security Ruling (SSR)* 85-28, 1985 WL 56856 at 3 (SSA 1985); see also *Yuckert v. Bowen*, 841 F.2d 303, 306 (9th Cir. 1988); *Webb v. Barnhart*, 433 F.3d 683, 686 (9th Cir. 2006); *Kirby v. Astrue*, 500 F.3d 705, 707–08 (8th Cir. 2007); 20 C.F.R. §§ 404.1521(a), 416.921(a).

⁴⁴ *Smolen*, 80 F.3d at 1290 (citing *Bowen v. Yuckert*, 482 U.S. 137 (1987)).

⁴⁵ SSR 85-28.

⁴⁶ 20 C.F.R. § 404.1523 states:

In determining whether your physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under the law, we will consider the combined effect of all of your impairments without regard to whether any such impairment, if considered separately, would be of sufficient severity. If we do find a

The record in this case contains medical evidence that Mr. J suffers from depression, arthritis in his hands, arms, and knees,⁴⁷ periodic numbness in his lower right leg,⁴⁸ gastritis, a history of gastro-intestinal bleeding, hypertension, chronic occlusion of the right external iliac, and a common femoral bypass graft. The Division did not concede that any of Mr. J's impairments, standing alone, was severe. However, the Division agreed that Mr. J's mental and physical impairments, in combination, are medically severe.⁴⁹

In summary, the parties agree that the combined effect of Mr. J's impairments has more than a minimal effect on Mr. J's ability to perform work-related activities. Accordingly, Mr. J's mental and physical impairments, in combination, are medically severe, and Mr. J has satisfied Step 2 of the disability analysis.

3. Step 2(b) - Is the Durational Requirement Satisfied?

The next step, pursuant to 20 CFR 416.909, is to decide whether or not Mr. J's impairments have lasted, or can be expected to last, for a continuous period of at least 12 months. In this regard, it is important to note that the 12 month duration requirement of 20 C.F.R. 416.909 is retrospective as well as prospective; it looks back in time as well as forward in time (i.e. the impairment "must have lasted or must be expected to last").

The Division's medical reviewer conceded that Mr. J's physical impairments satisfied the duration requirement, but questioned whether Mr. J's mental impairment (depression) met the duration requirement.⁵⁰ However, the available medical records indicate that Mr. J has been diagnosed with and treated for depression since at least February 1998.⁵¹ Further, the Division's own AD-2 form, dated March 23, 2012, indicates that Mr. J's impairments (including his depression) were expected to continue for at least 12 months after that date.⁵² Thus, as of March 2012 Mr. J's depression had lasted for at least fourteen years, and was expected to continue for at least another 12 months. As a result, the medical evidence shows that Mr. J's depression met the 12 month durational requirement. Accordingly, Mr. J satisfies step two of the disability determination process.

medically severe combination of impairments, the combined impact of the impairments will be considered throughout the disability determination process.

⁴⁷ Ex. 3.22.

⁴⁸ Ex. 3.20.

⁴⁹ Laura Ladner hearing testimony.

⁵⁰ Laura Ladner hearing testimony.

⁵¹ Ex. A43.

⁵² Ex. 3.4.

4. Step 3 - Do any of the Applicant's Impairments "Meet the Listing?"

The next step in the analysis is to determine whether the applicant's severe impairment(s) meets the specific criteria of one or more of the listings of impairments contained in the SSA's regulations at 20 C.F.R. Part 404, Subpart P, Appendix 1 ("the Listings").

The Division's Medical Reviewer asserted at hearing that Mr. J's impairments do not satisfy any SSA Listing. Accordingly, it is necessary to examine each of Mr. J's impairments to determine whether any of them meet or equal the requirements on an SSA Listing.

a. Mr. J's Depression

The SSA Listing which applies to depression is Section 12.04 (affective disorders). Listing 12.04 states in relevant part:

The required level of severity . . . is 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

[Subsections 2 and 3 not relevant and therefore omitted]

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.^[53]

There is some indication in Mr. J's medical records of appetite disturbances, weight changes, sleep disturbances, decreased energy, and difficulty concentrating or thinking. Accordingly, Mr. J satisfies the SSA's "A" criteria for depression. However, there is no evidence in the record that Mr. J's symptoms of depression satisfy the "B" or "C" criteria. Accordingly, based on the medical evidence provided, Mr. J's depression does not meet the requirements of SSA Listing 12.04.

b. Mr. J's Arthritis

The SSA Listing which applies to Mr. J's arthritis is Section 14.09.⁵⁴ Listing 14.09 requires:

- A. Persistent inflammation or persistent deformity of:
1. One or more major peripheral weight-bearing joints resulting in the inability to ambulate effectively (as defined in 14.00C6); or
 2. One or more major peripheral joints in each upper extremity resulting in the inability to perform fine and gross movements effectively (as defined in 14.00C7).
- or
- B. Inflammation or deformity in one or more major peripheral joints with:
1. Involvement of two or more organs/body systems with one of the organs/body systems involved to at least a moderate level of severity; and
 2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).
- or
- C. Ankylosing spondylitis or other spondyloarthropathies, with:
1. Ankylosis (fixation) of the dorsolumbar or cervical spine as shown by appropriate medically acceptable imaging and measured on physical examination at 45° or more of flexion from the vertical position (zero degrees); or

⁵³ 20 C.F.R. Part 404, Subpart P, Appendix 1, § 12.04.

⁵⁴ See 20 C.F.R. Part 404, Subpart P, Appendix 1, § 14.00D6.

2. Ankylosis (fixation) of the dorsolumbar or cervical spine as shown by appropriate medically acceptable imaging and measured on physical examination at 30° or more of flexion (but less than 45°) measured from the vertical position (zero degrees), and involvement of two or more organs/body systems with one of the organs/body systems involved to at least a moderate level of severity.

or

D. Repeated manifestations of inflammatory arthritis, with at least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss) and one of the following at the marked level:

1. Limitation of activities of daily living.
2. Limitation in maintaining social functioning.
3. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace.

The record shows that Mr. J has self-reported three of the "constitutional" symptoms or signs of arthritis (severe fatigue, malaise, and involuntary weight loss). However, there is no medical evidence in the record of any of the other "A," "B," or "C" criteria, or of any of the "D" criteria at the "marked" level. Accordingly, based on the medical evidence provided, Mr. J's arthritis does not meet the requirements of SSA Listing 14.09.

c. Mr. J's Peripheral Neuropathy /Numbness

The SSA Listing which applies to Mr. J's periodic numbness in his lower right leg (his peripheral neuropathy)⁵⁵ is Section 11.14. Listing 11.14 requires proof of "disorganization of motor function as described in 11.04B, in spite of prescribed treatment." Listing 11.04B requires "[s]ignificant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station" Mr. J has only asserted periodic numbness in one extremity, and there is no evidence in the record that this occasional numbness is causing "sustained disturbance of gross and dexterous movements" or of "gait and station." Accordingly, based on the medical evidence provided, Mr. J's peripheral neuropathy does not meet the requirements of SSA Listing 14.09.

d. Mr. J's Gastritis and History of Gastrointestinal Bleeding

⁵⁵ Peripheral neuropathy is a disorder of the peripheral nerves—the motor, sensory and autonomic nerves that connect the spinal cord to muscles, skin and internal organs. See Neuropathy Association website at http://www.neuropathy.org/site/PageServer?pagename=About_Facts (date accessed September 26, 2012).

Mr. J had gastrointestinal bleeding in February 2012.⁵⁶ Mr. J was diagnosed with gastritis due to H. Pylori on March 23, 2012.⁵⁷ The SSA Listing which applies to Mr. J's gastritis and related bleeding is Section 5.02 (gastrointestinal hemorrhaging). This listing requires hemorrhaging, from any cause, requiring a blood transfusion of at least 2 units of blood per transfusion, and occurring at least three times during a consecutive 6-month period. The transfusions must be at least 30 days apart within the 6-month period.

In this case Mr. J has documented only one significant instance of gastrointestinal bleeding, in February 2012.⁵⁸ Accordingly, Mr. J's gastrointestinal bleeding does not meet the requirements of SSA Listing 5.02.

e. Mr. J's Hypertension

The SSA Listing which applies to Mr. J's hypertension is Section 4.00 (Cardiovascular System), and specifically subsection 4.00(H)(1). That Listing states in relevant part that, "[b]ecause hypertension (high blood pressure) generally causes disability through its effects on other body systems, we will evaluate it by reference to the specific body system(s) affected (heart, brain, kidneys, or eyes) when we consider its effects under the listings." In this case there has been no assertion that Mr. J's hypertension has had a debilitating effect on any specific organs or systems. Accordingly, Mr. J's hypertension does not meet the requirements of any Listing.

f. Mr. J's Cardiovascular Problems

Dr. Salamon also diagnosed Mr. J with chronic occlusion of the right external iliac vein and a common femoral bypass graft.⁵⁹ The SSA Listing which applies to these impairments is Section 4.00 (Cardiovascular System), and specifically subsections 4.11 and 4.12. These subsections require the following medical evidence in order to meet the Listing:

4.11 Chronic venous insufficiency of a lower extremity with incompetency or obstruction of the deep venous system and one of the following: (A) Extensive brawny edema (see 4.00G3) involving at least two-thirds of the leg between the ankle and knee or the distal one-third of the lower extremity between the ankle and hip; (OR) (B) Superficial varicosities, stasis dermatitis, and either recurrent ulceration or persistent ulceration that has not healed following at least 3 months of prescribed treatment.

4.12 Peripheral arterial disease, as determined by appropriate medically acceptable imaging (see 4.00A3d, 4.00G2, 4.00G5, and 4.00G6), causing intermittent claudication (see

⁵⁶ Ex. 3.25.

⁵⁷ Exs. 3.4, 3.30. Gastritis commonly refers to inflammation of the lining of the stomach. Gale Encyclopedia of Medicine (2008), accessed online at <http://medical-dictionary.thefreedictionary.com/gastritis> (date accessed September 26, 2012).

⁵⁸ Exs. A50 - A60.

⁵⁹ Ex. 3.4.

4.00G1) and one of the following: (A) Resting ankle/brachial systolic blood pressure ratio of less than 0.50, OR (B) Decrease in systolic blood pressure at the ankle on exercise (see 4.00G7a and 4.00C16-4.00C17) of 50 percent or more of pre-exercise level and requiring 10 minutes or more to return to pre-exercise level; OR (C) Resting toe systolic pressure of less than 30 mm Hg (see 4.00G7c and 4.00G8); OR (D) Resting toe/brachial systolic blood pressure ratio of less than 0.40 (see 4.00G7c).

At this time there is no medical evidence in the record indicating that Mr. J's chronic occlusion of the right external iliac artery, and/or common femoral⁶⁰ bypass graft, have resulted in the quantifiable symptoms required by these Listings. Accordingly, based on the medical evidence provided, Mr. J's cardiovascular problems do not meet the requirements of SSA Listings 4.11 or 4.12.

5. Summary

Mr. J has the burden of proving, by a preponderance of the evidence, that he is likely to be found disabled by the SSA. Because the preponderance of the evidence shows that Mr. J does not satisfy step three of the SSA disability determination process (*i.e.*, he does not meet or equal the SSA listings with regard to his impairments), he does not qualify for Interim Assistance.

IV. Conclusion

Mr. J did not meet his burden of proving that he is likely to be found disabled by the Social Security Administration due to his physical and/or mental impairments. As a result, the Division's decision denying Mr. J's application for Interim Assistance is AFFIRMED.

DATED this 28th day of September, 2012.

Signed

Jay D. Durych
Administrative Law Judge

⁶⁰ The record does not indicate whether the affected blood vessel is an artery or a vein.

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 9th day of October, 2012.

By: Signed _____
Name: Jay D. Durych
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]