

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

In the Matter of: )  
 )  
 Q C ) OAH No. 14-1040-APA  
 ) DPA Case No.  
\_\_\_\_\_ )

**FAIR HEARING DECISION**

**I. Introduction**

The issue in this case is whether Q C satisfies the Interim Assistance program's disability criteria. The Division of Public Assistance (Division) concluded that although Mr. C's impairments are medically severe, and although his impairments have lasted long enough to satisfy the 12 month durational requirement, they do not satisfy the specific criteria of the Social Security Administration's (SSA's) applicable impairment "Listings."<sup>1</sup> Accordingly, the Division denied Mr. C's application for Interim Assistance.<sup>2</sup>

This decision concludes that Mr. C suffers from several severe impairments, and that these impairments satisfy the 12 month durational requirement. However, Mr. C's impairments do not currently satisfy the specific criteria of any of SSA's applicable impairment "Listings." As a result, Mr. C does not satisfy the Interim Assistance program's eligibility requirements.<sup>3</sup> The Division's decision denying Mr. C's application for Interim Assistance is therefore affirmed.

**II. Facts**

**A. Mr. C's Medical Condition and Functional Impairments**

Mr. C is 48 years old.<sup>4</sup> His current diagnoses or active medical problems consist of alcohol abuse, chronic liver disease / cirrhosis of the liver, degenerative disc disease, hepatitis C, hypertension, knee injury or derangement, latent tuberculosis, and tobacco use disorder.<sup>5</sup> His current medications include Gabapentin and Tramadol.<sup>6</sup>

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<sup>1</sup> Exs. 4.0 - 4.3; Jamie Lang's hearing testimony.

<sup>2</sup> Ex. 6.

<sup>3</sup> Since the decision in *In re M.H.*, OAH No. 12-0688-APA (Commissioner of Health and Social Services 2012), it is typically more difficult for an applicant to qualify for Alaska's Interim Assistance program than it is for the same applicant to qualify for Supplemental Security Income (SSI) with the SSA, although the process of qualifying for SSI takes longer. Accordingly, an applicant should not assume he or she will fail to qualify for SSI simply because the applicant fails to qualify for Interim Assistance.

<sup>4</sup> Ex. 1.

<sup>5</sup> Exs. 3.22, 3.25, 3.29, 3.33, 3.35, 3.38.

<sup>6</sup> Ex. 3.22.

On April 9, 2014 some form of radiological study was taken of Mr. C's lumbar spine.<sup>7</sup> The radiologist's report states in relevant part as follows:

Study includes flexion, extension, and neutral lateral views. Moderate disc space narrowing at L4 and mild at L3. Anterior osteophytes. Flexion-extension show limited range of motion and there is definitely about 4mm retrolisthesis that occurs at L4-5 with extension. No pars defects are present. Impression: Degenerative changes. Moderate instability with retrolisthesis L4-5 with extension.

On April 23, 2014 an MRI was taken of Mr. C's lumbar spine.<sup>8</sup> The MRI showed moderate lower thoracic degenerative disc disease at T10-11 and T11-12, and mild to moderate multilevel lumbar spondylosis at L4-5, but no significant disc bulges or spinal stenosis.

On April 30, 2014 Mr. C completed the Division's *Disability and Vocational Report* form.<sup>9</sup> Mr. C wrote that his back, hips, and legs do not work very well, that his back begins to hurt if he stands for very long, and that when that happens, he must sit down. He stated that his hips also hurt if he stands too long or walks too much.

On May 1, 2014 Mr. C told his doctor that he had lower back pain which had gotten progressively worse over the last few years.<sup>10</sup> He reported that he could no longer bend because of his back pain. He stated that he thought he had lost some muscle mass, that he had developed weakness in both legs, and that he was having trouble walking due to the weakness and pain. He reported that his legs sometimes get numb. He told his doctor that, because of these problems, he was no longer able to carry-out daily tasks. Testing by Mr. C's physician confirmed that he has weakness in both legs with strength of 3/5 below the knees.<sup>11</sup>

Although Mr. C has hepatitis C and liver problems, notes from a medical appointment on May 1, 2014 indicate that recent lab work showed those problems to be chronic but stable.<sup>12</sup> Mr. C reported no nausea, vomiting, abdominal pain, or jaundice.

On May 1, 2014 Dr. S T, M.D. performed Mr. C's preliminary examination for Interim Assistance and completed the Division's Form AD-2.<sup>13</sup> Dr. T reported Mr. C's primary diagnoses as degenerative disc disease of the lumbar spine, chronic neck pain, and hepatitis C. Dr. T

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<sup>7</sup> All factual findings in this paragraph are based on Ex. 3.47 unless otherwise stated. It is unclear from the written report whether the study was an x-ray or an MRI.

<sup>8</sup> All factual findings in this paragraph are based on Exs. 3.6, 3.7, 3.12, 3.44, and 3.46 unless otherwise stated.

<sup>9</sup> All factual findings in this paragraph are based on Exs. 3.53 - 3.57 unless otherwise stated.

<sup>10</sup> All factual findings in this paragraph are based on Ex. 3.25 unless otherwise stated.

<sup>11</sup> Ex. 3.27.

<sup>12</sup> All factual findings in this paragraph are based on Ex. 3.25 unless otherwise stated.

<sup>13</sup> All factual findings in this paragraph are based on Exs. 3.42, 3.43, 3.49, and 3.50 unless otherwise stated.

recommended that Mr. C be evaluated for orthopedic surgery and physical therapy, but stated that Mr. C was not expected to recover from any of the three listed medical conditions.

**B. Mr. C's Education and Work History**

Mr. C has a high school graduation equivalency diploma (GED) and can speak and write in English.<sup>14</sup> Over the last 15 years Mr. C has worked in the logging industry, in a fish cannery, and as a dishwasher.

**C. Relevant Procedural History**

Mr. C applied for Interim Assistance on April 30, 2014.<sup>15</sup> On June 20, 2014 the Division issued a notice denying Mr. C's application, based on its finding that his medical condition did not appear to satisfy the Interim Assistance program's disability criteria.<sup>16</sup>

Mr. C requested a hearing.<sup>17</sup> The hearing was held on July 25, 2014. Mr. C participated in the hearing by phone, represented himself, and testified on his own behalf. Public Assistance Analyst Jeff Miller participated by phone and represented the Division. Jamie Lang, the Division's Medical Reviewer, participated by phone and testified on behalf of the Division. The record closed at the end of the hearing.

**III. Discussion**

**A. The Three Step Interim Assistance Disability Determination Process**

Interim Assistance is part of Alaska's Adult Public Assistance (APA) program, which provides financial assistance to "aged, blind, or disabled needy [Alaska] resident[s]."<sup>18</sup> Interim Assistance provides a monthly payment in the amount of \$280 provided to APA applicants while they are waiting for the Social Security Administration (SSA) to approve their Supplemental Security Income (SSI) applications.<sup>19</sup> Applicants for Interim Assistance who are under the age of 65 years are required to apply to SSA and qualify for SSI as a prerequisite to receiving Adult Public Assistance benefits.<sup>20</sup> Once an Interim Assistance applicant or recipient is approved for SSI, Interim Assistance payments cease, but he or she is then eligible to receive Adult Public Assistance benefits instead.<sup>21</sup>

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<sup>14</sup> All factual findings in this paragraph are based on Exs. 3.55 - 3.57 unless otherwise stated.

<sup>15</sup> Ex. 2.

<sup>16</sup> Ex. 6.

<sup>17</sup> Ex. 5.

<sup>18</sup> AS 47.25.430.

<sup>19</sup> 7 AAC 40.170(a) and (b); AS 47.25.455.

<sup>20</sup> 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).

<sup>21</sup> 7 AAC 40.030(a); 7 AAC 40.170(a).

In order to qualify for Interim Assistance, an applicant must be “likely to be found disabled by the Social Security Administration.”<sup>22</sup> An Interim Assistance applicant has the burden of proving, by a preponderance of the evidence, that he or she is likely to be found disabled by SSA.<sup>23</sup>

The SSA uses a five-step evaluation process in making its disability determinations.<sup>24</sup> Each step is considered in order, and if the SSA finds the applicant not to be disabled at steps one, two, or four, it does not consider subsequent steps.<sup>25</sup>

The Division uses *the first three steps* of the SSA disability determination process in deciding whether an applicant qualifies for Interim Assistance.<sup>26</sup> The first step looks at the applicant’s current work activity. If the applicant is performing “substantial gainful activity,” the applicant is not disabled.<sup>27</sup> 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.<sup>28</sup> In order to be considered disabled, the impairment or combination of impairments must be severe,<sup>29</sup> and must be expected to result in death or must have lasted or be expected to last at least 12 months.<sup>30</sup> 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 satisfies certain impairment-specific criteria (known as “Listings”) adopted by the SSA.<sup>31</sup> If it does, the applicant is

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<sup>22</sup> 7 AAC 40.180(b)(1).

<sup>23</sup> See 2 AAC 64.290(e); see also *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985) (the party who is seeking a change in the status quo bears the burden of proof); *Amerada Hess Pipeline v. Alaska Public Utilities Comm’n*, 711 P.2d 1170, 1179 n. 14 (Alaska 1986) (the standard of proof in an administrative proceeding, unless otherwise specified, is the preponderance of the evidence standard).

<sup>24</sup> 20 C.F.R. § 416.920.

<sup>25</sup> 20 C.F.R. § 416.920(a)(4).

<sup>26</sup> See *In re M.H.*, OAH No. 12-0688-APA (Commissioner of Health and Social Services 2012). This decision was reversed by an Anchorage Superior Court judge in 2013. However, the Superior Court’s legal analysis is not binding on the Division except in that particular case, and the Division has appealed the Superior Court’s decision to the Alaska Supreme Court.

<sup>27</sup> 20 C.F.R. § 416.920(a)(4)(i).

<sup>28</sup> 20 C.F.R. § 416.908.

<sup>29</sup> 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).

<sup>30</sup> 20 C.F.R. § 416.909; 20 C.F.R. § 416.920(a)(4)(ii).

<sup>31</sup> See 20 C.F.R. Part 404, Subpart P, Appendix 1 (hereafter “Appendix 1”).

disabled<sup>32</sup> and qualifies for Interim Assistance. If the applicant's impairment does not meet or equal one of the SSA Listings, the applicant does not qualify for Interim Assistance.<sup>33</sup>

**B. Application of the Interim Assistance Criteria 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."<sup>34</sup> Mr. C testified that he is not currently working, and the Division did not dispute this.<sup>35</sup> Accordingly, Mr. C has proven that he is not engaged in substantial gainful activity, and has satisfied Step 1 of the three-step Interim Assistance analysis.

2. Step 2 - Are the Severity and Durational Requirements Satisfied?

a. Severity

At step two of the sequential evaluation process, the adjudicator must determine which of the applicant's impairments, if any, are "severe."<sup>36</sup> An impairment should be found to be "non-severe" only when the evidence establishes only a "slight abnormality" that has "no more than a minimal effect" on an individual's ability to work.<sup>37</sup> The inquiry at Step 2 is "a *de minimis* screening device to dispose of groundless claims."<sup>38</sup> 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.<sup>39</sup> Further, even if no single impairment is found to be severe under this lenient standard, each impairment still must be considered in combination with all other impairments to determine whether the combined effect of multiple impairments is medically severe.<sup>40</sup>

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<sup>32</sup> 20 C.F.R. § 416.920(a)(4)(iii) and (d).

<sup>33</sup> See *In Re M.H.*, OAH Case No. 12-0688-APA. This is the point at which the analysis in Alaska Interim Assistance program cases diverges from the analysis which SSA uses in SSI cases. In SSI cases, even if an applicant's impairment *does not* meet the criteria of a specific Listing at step three, the applicant can still qualify for benefits by showing that he or she cannot perform his or her prior work, and cannot perform sedentary work. See 20 C.F.R. § 416.920.

<sup>34</sup> 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.

<sup>35</sup> Exs. 4.0 - 4.3; Q C's hearing testimony; Jamie Lang's hearing testimony.

<sup>36</sup> 20 C.F.R. § 404.1521.

<sup>37</sup> *Social Security Ruling (SSR)* 85-28, 1985 WL 56856 at 3 (SSA 1985); see also *Yuckert v. Bowen*, 841 F.2d 303, 306 (9<sup>th</sup> Cir. 1988); *Webb v. Barnhart*, 433 F.3d 683, 686 (9<sup>th</sup> Cir. 2006); *Kirby v. Astrue*, 500 F.3d 705, 707-08 (8<sup>th</sup> Cir. 2007); 20 C.F.R. §§ 404.1521(a), 416.921(a).

<sup>38</sup> *Smolen*, 80 F.3d at 1290 (citing *Bowen v. Yuckert*, 482 U.S. 137 (1987)).

<sup>39</sup> SSR 85-28.

<sup>40</sup> 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 Division found that Mr. C's impairments are "severe" as defined by the applicable regulations.<sup>41</sup> Accordingly, Mr. C's impairments satisfy the first half of Step 2 of the three-step Interim Assistance disability analysis.

b. Duration

The next step, pursuant to 20 C.F.R. 416.909, is to decide whether or not Mr. C'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 did not dispute that Mr. C's impairments have lasted for more than 12 months.<sup>42</sup> The medical evidence confirms that his impairments satisfy the 12 month durational requirement. Mr. C therefore satisfies the second half of Step 2 of the disability analysis.

3. Step 3 - Whether the Applicant "Meets the Listing"

The final step of the Interim Assistance program's disability analysis is to determine whether an applicant's impairments meet or equal the criteria of the Listing of impairments contained in the SSA's regulations at 20 C.F.R. Part 404, Subpart P, Appendix 1 ("the Listings"). The applicant bears the burden of establishing that his or her impairment satisfies the requirements of a "Listings" impairment.<sup>43</sup> To meet a Listing, an impairment must meet *all* of the Listing's specified criteria; an impairment that manifests only some of these criteria, no matter how severely, does not qualify.<sup>44</sup>

The record indicates that Mr. C has four basic types of impairments. These are (1) chronic back and neck pain caused by spinal problems; (2) hip, knee, and leg pain (joint pain); (3) chronic liver disease / cirrhosis of the liver / hepatitis C; and (4) hypertension.<sup>45</sup> The Social Security Administration has different criteria ("Listings") for each of these impairments. Accordingly, each of the four impairments must be analyzed separately.

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

<sup>41</sup> Exs. 4.1, 4.2; Jamie Lang's hearing testimony.

<sup>42</sup> Exs. 4.1, 4.2; Jamie Lang's hearing testimony.

<sup>43</sup> *Tackett v. Apfel*, 180 F.3d 1094, 1098-1099 (9th Cir.1999); *Sullivan v. Zebley*, 493 U.S. 521, 530-531, 110 S.Ct. 885, 107 L.Ed.2d 967 (1990).

<sup>44</sup> *Sullivan, supra*, 493 U.S. at 530.

<sup>45</sup> See Section II above at page 1.

a. Mr. C's Spinal Problems / Back and Neck Pain

The Social Security disability system classifies Mr. C's spinal problems and attendant neck and back pain under the Musculoskeletal Listing at 20 C.F.R. Part 404, Subpart P, Appendix 1, § 1.04. This Listing, titled "Disorders of the Spine," provides in relevant part:<sup>46</sup>

1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

- A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine); or
- B. Spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours; or
- C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

With regard to Section 1.04A, the evidence in the record indicates that Mr. C's spinal problems may satisfy two of the criteria in this section because his doctor found he had a limited range of motion and had difficulty with the straight-leg raising test. However, there is no medical evidence of compromise of a nerve root, nerve root compression, sensory or reflex loss, or muscle atrophy.

With regard to Section 1.04B, there is no medical evidence of spinal arachnoiditis.

With regard to Section 1.04C, there is evidence of lumbar spinal stenosis which clearly impairs Mr. C's ability to walk. However, under the SSA's regulations, the "inability to ambulate effectively" has very specific criteria, and is defined in relevant part as:<sup>47</sup>

(1) Definition. Inability to ambulate effectively means an extreme limitation of the ability to walk; *i.e.*, an impairment(s) that interferes very seriously with the individual's ability to independently initiate, sustain, or complete activities. Ineffective ambulation is defined generally as having insufficient lower

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<sup>46</sup> Appendix 1, §1.04.

<sup>47</sup> Appendix 1, §1.00(B)(2)(b).

extremity functioning (see 1.00J) to permit independent ambulation without the use of a hand-held assistive device(s) *that limits the functioning of both upper extremities . . .* [Emphasis added].

(2) *To ambulate effectively*, individuals must be capable of sustaining a reasonable walking pace over a sufficient distance to be able to carry out activities of daily living . . . . Therefore, examples of ineffective ambulation include, but are not limited to, the inability to walk without the use of a walker, two crutches or two canes . . . .

Mr. C's testimony regarding his difficulty walking was credible. However, both Mr. C's testimony and the medical records indicate that he is able to perform his activities of daily living without a walker, two crutches, or two canes. Accordingly, Mr. C does not satisfy the criteria of Listing Section 1.04(C).

In summary, Mr. C's spinal problems, while significant, do not satisfy the specific criteria of SSA Listing Section 1.04. It is therefore necessary to determine whether one of his other impairments satisfies the requirements of the relevant SSA Listing.

b. Mr. C's Hip and Knee Problems / Joint Pain

The Social Security disability system classifies Mr. C's hip and knee joint pain under the Musculoskeletal Listing at 20 C.F.R. Part 404, Subpart P, Appendix 1, Section 1.02. Section 1.02 requires in relevant part as follows:

1.02 Major dysfunction of a joint(s) (due to any cause): Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively, as defined in 1.00B2b . . .

Mr. C could be found to be disabled by his lower extremity joint pain, under Section 1.02(A), above, if he were unable to ambulate effectively as defined by Listing Section 1.00(B)(2)(b). However, as discussed in the preceding subsection, Mr. C is able to walk sufficiently to perform normal activities of daily living, and thus fails to meet the stringent requirements of Listing Section 1.00(B)(2)(b).<sup>48</sup> Accordingly, Mr. C's lower extremity joint pain does not satisfy the "inability to ambulate" requirement of Listing 1.02(A). It is therefore necessary to determine whether any of his other impairments satisfy the requirements of a relevant SSA Listing.

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<sup>48</sup> See discussion in Section III(C)(3)(a), above.



c. Mr. C's Chronic Liver Disease, Cirrhosis, and Hepatitis C

Mr. C's chronic liver disease, cirrhosis of the liver, and hepatitis C are all analyzed by the SSA under "Category of Impairments, Digestive System" (20 C.F.R. Part 404, Subpart P, Appendix 1, Section 5.05). The criteria of Section 5.05 are extremely technical.<sup>49</sup> The Division's Medical Reviewer testified that the severity of the Mr. C's chronic liver disease, cirrhosis of the liver, and hepatitis C do not meet the requirements of Section 5.05. An independent review of Mr. C's

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In order for the Mr. C to meet the criteria set out in Section 5.05, there must be evidence of:

A. Hemorrhaging from esophageal, gastric, or ectopic varices or from portal hypertensive gastropathy, demonstrated by endoscopy, x-ray, or other appropriate medically acceptable imaging, resulting in hemodynamic instability as defined in 5.00D5, and requiring hospitalization for transfusion of at least 2 units of blood. Consider under a disability for 1 year following the last documented transfusion; thereafter, evaluate the residual impairment(s). OR

B. Ascites or hydrothorax not attributable to other causes, despite continuing treatment as prescribed, present on at least two evaluations at least 60 days apart within a consecutive 6-month period. Each evaluation must be documented by: (1) Paracentesis or thoracentesis; or (2) Appropriate medically acceptable imaging or physical examination and one of the following: (a) Serum albumin of 3.0 g/dL or less; or (b) International Normalized Ratio (INR) of at least 1.5. OR

C. Spontaneous bacterial peritonitis with peritoneal fluid containing an absolute neutrophil count of at least 250 cells/mm<sup>3</sup>. OR

D. Hepatorenal syndrome as described in 5.00D8, with one of the following: (1) Serum creatinine elevation of at least 2 mg/dL; or (2) Oliguria with 24-hour urine output less than 500 mL; or (3) Sodium retention with urine sodium less than 10 mEq per liter. OR

E. Hepatopulmonary syndrome as described in 5.00D9, with: (1) Arterial oxygenation (P<sub>a</sub>O<sub>2</sub>) on room air of: (a) 60 mm Hg or less, at test sites less than 3000 feet above sea level, or (b) 55 mm Hg or less, at test sites from 3000 to 6000 feet, or (c) 50 mm Hg or less, at test sites above 6000 feet; or (2) Documentation of intrapulmonary arteriovenous shunting by contrast-enhanced echocardiography or macroaggregated albumin lung perfusion scan. OR

F. Hepatic encephalopathy as described in 5.00D10, with 1 and either 2 or 3:

1. Documentation of abnormal behavior, cognitive dysfunction, changes in mental status, or altered state of consciousness (for example, confusion, delirium, stupor, or coma), present on at least two evaluations at least 60 days apart within a consecutive 6-month period; and

2. History of transjugular intrahepatic portosystemic shunt (TIPS) or any surgical portosystemic shunt; or

3. One of the following occurring on at least two evaluations at least 60 days apart within the same consecutive 6-month period as in F1: (a) Asterixis or other fluctuating physical neurological abnormalities; or (b) Electroencephalogram (EEG) demonstrating triphasic slow wave activity; or (c.) Serum albumin of 3.0 g/dL or less; or (d) International Normalized Ratio (INR) of 1.5 or greater. OR

G. End stage liver disease with SSA CLD scores of 22 or greater calculated as described in 5.00D11. Consider under a disability from at least the date of the first score.

medical records confirms that the specific requirements of Listing 5.05 are not met here. It is therefore necessary to determine whether his remaining impairment satisfies the requirements of a relevant SSA Listing.

d. Mr. C's Hypertension

The SSA Listing which applies to Mr. C'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. C's hypertension has had a debilitating effect on any specific organs or systems. Independent review of Mr. C's medical records likewise fails to disclose a connection between Mr. C's hypertension and any specific debilitating effect. Accordingly, Mr. C's hypertension does not satisfy the requirements of Listing 4.00(H)(1).

**IV. Conclusion**

Mr. C is not currently engaged in substantial gainful employment. He suffers from a number of significant impairments, and those impairments satisfy the 12 month durational requirement. However, Mr. C has not presented evidence demonstrating that any of his impairments satisfy the specific criteria of any SSA "Listing." Accordingly, the Division correctly determined that Mr. C is not currently eligible for Interim Assistance. The Division's decision denying Mr. C's application for Interim Assistance is therefore affirmed.

DATED this 26th day of August, 2014.

*Signed*

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Jay D. Durych

Administrative Law Judge

## 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 16<sup>th</sup> day of September, 2014.

By: Signed  
Name: Ree Sailors  
Title: Deputy Commissioner, DHSS

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