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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

VAHID ATASHZAI,	}	CV 14-03198-SH
Plaintiff,	}	MEMORANDUM DECISION
v.	}	AND ORDER
CAROLYN W. COLVIN, Commissioner,	}	
Social Security Administration,	}	
Defendant.	}	

I. PROCEEDINGS

On August 4, 2010, plaintiff filed concurrent applications for disability insurance benefits and supplemental security benefits, alleging disability from June 10, 2010 due to Crohn’s disease. Following denial of his claims at the initial levels, a hearing was held before an ALJ on November 10, 2011. The ALJ denied the claims. The Appeals Council thereafter vacated the ALJ’s Decisions and remanded the case for further proceedings.

1 On remand, Plaintiff amended his two claims to a closed period of disability
2 from March 30, 2009 through December 1, 2011. The ALJ again denied the claims.
3 This time, the Appeals Council denied plaintiff's Request for Review, and this civil
4 action was filed on May 7, 2014. The parties have file their respective briefs, and
5 the Administrative Record has been filed and reviewed.

6 7 II. ISSUE

8 The sole issue presented is whether the ALJ failed to properly evaluate the
9 medical evidence pursuant to Listing 5.08, by concluding that Plaintiff's weight loss
10 from Crohn's disease did not meet the criteria of the Listing. The court concludes
11 that the ALJ misunderstood the elements of Listing 5.08 by requiring that all weight
12 loss be suffered during the actual treatment period. Nothing in the plain language
13 of Listing 5.08 indicates that weight loss is to be so narrowly defined.

14 Listing 5.08 requires only a showing of weight loss "due to any digestive
15 disorder despite continuing treatment as prescribed, with BMI of less that 17.50
16 calculated on at least two evaluations at least 60 days apart within a consecutive 6-
17 month period."

18 There is no doubt that plaintiff was diagnosed with Crohn's disease, an
19 inflammatory bowel disease, by Dr. Moghaddam and Dr. Sach, in 2009 and 2011.
20 Dr. Moghaddam clearly attributed weight loss due, at least in part, to Crohn's
21 disease. A.R. 309-317. Dr Sach noted a biopsy proved Chron's ileolitis upon
22 colonoscopic evaluation in 2009, with associated weight loss. A.R. 294, 296.
23 Consulting physician Dr. Wallack also reviewed a colonoscopy report which
24 revealed ulcers and pathological findings suggestive of Chron's disease. A.R. 272-3.

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27 The ALJ erred by relying on the testimony of the medical advisor, Dr.
28 Maimon, who testified that there was no evidence of weight loss. Nevertheless, he

1 For the foregoing reasons, the court finds that plaintiff met or equaled Listing
2 5.08. Therefore, the Decision of the Commissioner is reversed, and the mater is
3 remanded for calculation of a closed period of benefits.

4 Dated October 30, 2014



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8 STEPHEN J. HILLMAN
9 UNITED STATES MAGISTRATE JUDGE
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