

**SOCIAL SECURITY ADMINISTRATION**

Refer To: [REDACTED]

Office of Disability Adjudication and Review  
SSA ODAR Hearing Ofc  
9th Floor  
200 West Adams Street  
Chicago, IL 60606

Date: November 30, 2012

Lora Terrell  
14215 S. Union Ave  
Riverdale, IL 60827

**Notice of Decision Fully Favorable**

I carefully reviewed the facts of your case and made the enclosed fully favorable decision. Please read this notice and my decision.

Although my decision is fully favorable, you have the right to an oral hearing and to examine the evidence on which I based my decision. Please contact the office listed above if you want to have an oral hearing or examine the evidence in your case record.

Another office will process my decision. That office may ask you for more information. If you do not hear anything within 60 days of the date of this notice, please contact your local office. The contact information for your local office is at the end of this notice.

**If You Disagree With My Decision**

If you disagree with my decision, you or your representative may submit written exceptions to the Appeals Council. "Written exceptions" are your statements explaining why you disagree with my decision. Please put the Social Security number shown above on any written exceptions you send.

Please send your written exceptions to:

**Appeals Council**  
**Office of Disability Adjudication and Review**  
**5107 Leesburg Pike**  
**Falls Church, VA 22041-3255**

If you need help, you may file in person at any Social Security or hearing office.

**Time Limit To File Written Exceptions (30 Days)**

You must file your written exceptions with the Appeals Council **within 30 days** of the date you get this notice. The Appeals Council assumes that you got this notice within 5 days after the date of the notice unless you show that you did not get it within the 5-day period.

Form HA-L76 (03-2010)

See Next Page

If you need more time to file your written exceptions, you must file a written request with the Appeals Council. You must file the request for an extension within 30 days of the date you get this notice. If you request more than 30 days, you must explain why you need the extra time. The Appeals Council will decide whether to grant your request for more than a 30-day extension.

### **How Written Exceptions Work**

The Appeals Council will consider your entire case. It will consider all of my decision, even the parts with which you agree. The Appeals Council's action may be more or less favorable or unfavorable to you. The rules the Appeals Council uses are in the Code of Federal Regulations, Title 20, Chapter III, Part 404 (Subpart J).

The Appeals Council may:

- Find that there is no reason to change my decision,
- Return your case to me or another administrative law judge for a new decision, or
- Issue its own decision.

The Appeals Council will send you a notice telling you what it decides to do. If the Appeals Council does not change my decision, my decision will become the final decision after remand. Any future claim you file will not change a final decision on this claim if the facts and issues are the same.

### **The Appeals Council May Review My Decision On Its Own**

The Appeals Council may review my decision even if you do not file written exceptions. The Appeals Council will notify you within 60 days of the date of this notice if it decides to review your case.

### **Filing An Action In Federal District Court**

If you do not file written exceptions and the Appeals Council does not review your case on its own, my decision and a transcript of your case record will be sent to the Office of the United States Attorney for filing with the court when required. You have the right to pursue your civil action with the court.

### **If You Have Any Questions**

We invite you to visit our website located at [www.socialsecurity.gov](http://www.socialsecurity.gov) to find answers to general questions about social security. You may also call (800) 772-1213 with questions. If you are deaf or hard of hearing, please use our TTY number (800) 325-0778.

If you have any other questions, please call, write, or visit any Social Security office. Please have this notice and decision with you. The telephone number of the local office that serves your area is (877)409-8427. Its address is:

Social Security  
8658 S Sacramento Ave  
Chicago, IL 60652-3897

Bonny S. Barezky  
Administrative Law Judge

Enclosures:  
Form HA-L15 (Fee Agreement Approval)  
Decision Rationale

cc: Robert Williams  
33 N La Salle Street  
Suite 2119  
Chicago, IL 60602

**SOCIAL SECURITY ADMINISTRATION**  
**Office of Disability Adjudication and Review**

**ORDER OF ADMINISTRATIVE LAW JUDGE**

**IN THE CASE OF**

Lora Terrell  
\_\_\_\_\_  
(Claimant)

\_\_\_\_\_  
(Wage Earner)

**CLAIM FOR**

Period of Disability and Disability Insurance  
Benefits  
\_\_\_\_\_

\_\_\_\_\_  
(Social Security Number)

I approve the fee agreement between the claimant and her representative subject to the condition that the claim results in past-due benefits. My determination is limited to whether the fee agreement meets the statutory conditions for approval and is not otherwise excepted. I neither approve nor disapprove any other aspect of the agreement.

**YOU MAY REQUEST A REVIEW OF THIS ORDER AS INDICATED BELOW**

**Fee Agreement Approval:** You may ask us to review the approval of the fee agreement. If so, write us within 15 days from the day you get this order. Tell us that you disagree with the approval of the agreement and give your reasons. Your representative also has 15 days to write us if he or she does not agree with the approval of the fee agreement. Send your request to this address:

Sherry D. Thompson  
Regional Chief Administrative Law Judge  
SSA ODAR Regional Ofc  
Suite 2901  
200 W Adams Street  
Chicago, IL 60606-5234

**Fee Agreement Amount:** You may also ask for a review of the amount of the fee due to the representative under this approved fee agreement. If so, please write directly to me as the deciding Administrative Law Judge within 15 days of the day you are notified of the amount of the fee due to the representative. Your representative also has 15 days to write me if he/she does not agree with the fee amount under the approved agreement.

You should include the social security number(s) shown on this order on any papers that you send us.

*/s/ Bonny S. Barezky*

\_\_\_\_\_  
Bonny S. Barezky  
Administrative Law Judge

November 30, 2012

\_\_\_\_\_  
Date

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**DECISION**


**IN THE CASE OF**

Lora Terrell  
\_\_\_\_\_  
(Claimant)

\_\_\_\_\_  
(Wage Earner)

**CLAIM FOR**

Period of Disability and Disability Insurance  
Benefits  
\_\_\_\_\_

  
\_\_\_\_\_  
(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

This case is before the undersigned on remand from the Appeals Council. The evidence of record supports a fully favorable decision; therefore no hearing has been held (20 CFR 404.948(a)). The claimant is represented by Robert Williams, an attorney.

On March 9, 2004, the claimant filed an application for a period of disability and disability insurance benefits alleging inability to work since October 6, 2003. Following denials at the initial and reconsideration levels a hearing was held before Administrative Law Judge Alfred Burton on January 3, 2007 in Chicago Illinois. The claimant was represented by counsel. A decision was issued on July 3, 2007 finding the claimant capable of a full range of sedentary work and to be not disabled. This decision was affirmed by the Appeals Council on February 9, 2009 but was remanded by the United States District Court for the Northern District Illinois because the recording of the hearing could not be located. Pursuant to this order, the Appeals Council vacated the decision and remanded the case for a new hearing on February 1, 2010.

A second hearing was held before Administrative Law Judge Michael Logan on February 8, 2011 in Chicago Illinois. The claimant was again represented by counsel. In a decision issued on May 31, 2011, the claimant was found capable of a limited range of sedentary work and to be not disabled. A request for review of that decision was made on June 17, 2011. On April 30, 2012, the Appeals Council again remanded the case stating that the date last insured had been erroneously given as December 1, 2008 when it actually was December 31, 2012. It was also stated that findings following the sequential evaluation process should also be made.

The claimant is alleging disability since October 6, 2003. This decision incorporates by reference the medical evidence summarized in the previous two decisions but not the conclusions derived therein.

**ISSUES**

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of

impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2012. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from October 6, 2003, through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

### **APPLICABLE LAW**

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's

residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, she is not disabled. If the claimant is not able to do other work and meets the duration requirement, she is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

### **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 December 31, 2012.**
- 2. The claimant has not engaged in substantial gainful activity since October 6, 2003, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**

The claimant worked after the established disability onset date, but this work activity did not rise to the level of substantial gainful activity. Her earnings record shows some earnings for 2004 and 2007 through 2011 but far below the level indicating substantial gainful activity.

- 3. The claimant has the following severe impairments: posterior tibial tendinitis, obesity, hypertension, obesity, history of cardiomyopathy, spondylosis of the cervical spine, and tendinitis of the right shoulder (20 CFR 404.1520(c)).**

As noted above this decision incorporates by reference the evidence summarized in the first two decisions. While the claimant has alleged many other impairments in her attorney's letter of November 20, 2012 it appears the above impairments are her principal problems.

**4. The claimant does not have an impairment or combination of impairments that meets or medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525 and 404.1526).**

In the above noted letter of November 20, 2012 the claimant's attorney alleged that her impairments met at least 10 of the listed impairments. The undersigned must disagree with these contentions. The evidence cited by him in the letter did not show continuous periods that these listings were met. However, since a fully favorable decision is possible on other grounds this need not be further considered.

**5. The claimant has the residual functional capacity to perform sedentary work as defined in 20 CFR 404.1567(a) except for inability to perform its lifting, walking, and standing requirements.**

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 SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-6p and 06-3p.

In the last decision the claimant was found to be limited to less than a sedentary capacity. The finding of the undersigned in this decision is that the claimant is so limited but to a greater degree than found in that decision. When her multiple impairments are considered together the pain and weakness they cause make it reasonable to find that since the alleged onset date she has been unable to perform the walking and standing of two hours out of eight or the lifting of 10 pounds occasionally required by sedentary work.

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 consultant's physical assessment is given little weight because the combination of impairments would cause limitations making the claimant more limited than determined by the State agency consultant.

**6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).**

The vocational expert at the previous hearing testified that the claimant has past relevant work as a laborer, forklift driver, welder, and packer. She further testified that these jobs were done at the medium level. 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).**
- 8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).**
- 9. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (20 CFR 404.1568).**
- 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) and 404.1566).**

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.

- 11. The claimant has been under a disability as defined in the Social Security Act since October 6, 2003, the alleged onset date of disability (20 CFR 404.1520(g)).**

### DECISION

Based on the application for a period of disability and disability insurance benefits filed on March 9, 2004, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since October 6, 2003.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 24 months.

/s/ *Bonny S. Barezky*

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Bonny S. Barezky  
Administrative Law Judge

November 30, 2012

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Date