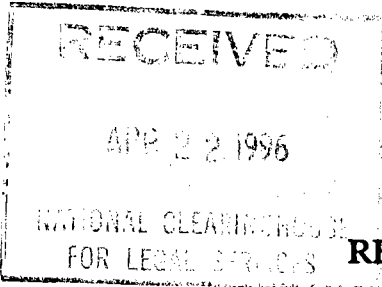


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**SOCIAL SECURITY ADMINISTRATION
OFFICE OF HEARINGS AND APPEALS**

ORDER OF APPEALS COUNCIL

REMANDING CASE TO ADMINISTRATIVE LAW JUDGE

In the case of

Claim for

Transito B Ybarra
(claimant)

Period of Disability
Disability Insurance Benefits

(Wage Eamer)(Leave blank if same as above)

525 92 8488
(Social Security Number)

The Administrative Law Judge issued a decision on July 24, 1995. The claimant has asked the Appeals Council to review this decision.

The Appeals Council grants the request for review under the provisions of the Social Security Administration regulations (20 CFR 404.970). Under the authority of 20 CFR 404.977, the Appeals Council vacates the hearing decision and remands this case to an Administrative Law Judge for further proceedings.

The Administrative Law Judge concluded that the claimant was not disabled pursuant to the provisions of 20 CFR 404.1520(b) because he returned to substantial gainful activity within 12 months of his alleged onset date of November 25, 1993 (findings no 2 through 6). Such conclusion, however, does not reflect consideration of Acquiescence Ruling 92-6(10), which provides in pertinent part, that a claim for disability insurance benefits in which the claimant returns to work within 12 months of the established onset date should be allowed and the claimant granted a trial work period if the following conditions are met:

The claimant establishes that at the time he returned to work and thereafter, the impairment was still expected to last for at least 12 consecutive months from the date of return to work;

the claimant returns to work after any necessary waiting period after the established onset date (but within the 12 month period following such onset date); and

the return to work demonstrating ability to engage in substantial gainful activity occurs either before or after the approval of the award.

Consequently, because the claimant did not return to work until after the necessary 5 month waiting period had expired (finding no 2) and because there is no showing that the impairment did not last for 12 consecutive months following the claimant's alleged onset date, further consideration of whether the claimant was disabled, and unable to engage in substantial gainful activity prior to his return to work is necessary.

Upon remand, the Administrative Law Judge will further consider the claim for disability pursuant to the sequential evaluation process described in 20 CFR 404.1520 until the issue of whether the claimant is disabled is decided. Should such consideration reveal that the claimant meets the disability requirements of the Social Security Act, any work activity occurring subsequent to the 5 month waiting period will be considered in accordance with the provisions of Acquiescence Ruling 92-6(10).

In compliance with the above, the Administrative Law Judge will offer the claimant an opportunity for a hearing; take any further action needed to complete the administrative record and issue a new decision.

APPEALS COUNCIL

ORIGIN& SIGNED BY

Peter N. Dowd

Administrative Appeals Judge

ORIGINA SIGNED BY

Rodney V. Tapp

Administrative Appeals Judge

Date:

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