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Opinion No. 10-106

Relationship Between Social Security Disability Claims and Unemployment Insurance Benefits

QUESTION

Does Tennessee or federal law, rule or regulation permit the Department of Human Services' Disability Determination Services section to reject a Social Security disability claim if the claimant is applying for or currently receiving unemployment insurance benefits?

OPINION

Based upon a number of federal court decisions, we conclude that a categorical rejection by the DDS of a Social Security disability applicant's claim of disability that is based solely upon the applicant's receipt of unemployment compensation would be inconsistent with federal requirements.

ANALYSIS

Claims for Social Security disability benefits, whether for SSDI (Social Security Disability Insurance) or for SSI (Supplemental Security Income)[1], are governed by federal law, and are federally funded and federally administered. The Social Security Administration (SSA) makes decisions with respect to eligibility for SSDI and SSI benefits. In Tennessee, the SSA contracts with the Tennessee Department of Human Services' Disability Determination Services section (DDS) to perform certain functions connected with the programs. These functions include the determination of whether or not an applicant for benefits is disabled, as defined by federal law and regulations. DDS' disability determinations, as well as the SSA's final eligibility decisions, may be reviewed and appealed. These reviews and appeals are conducted through the federal system, and may include administrative hearings before federal administrative law judges and judicial review in the federal courts.

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[1] Social Security Disability Insurance (SSDI) is financed with Social Security taxes paid by workers, employers, and self-employed persons. To be eligible for a benefit under the program, the worker must earn sufficient credits based on taxable work to be "insured" for Social Security purposes. Disability benefits are payable to blind or disabled workers, widow(er)s, or adults disabled since childhood, who are otherwise eligible.

Supplemental Security Income (SSI) is a program financed through general revenues. SSI disability benefits are payable to adults or children who are disabled or blind, have limited income and resources, meet the living arrangement requirements, and are otherwise eligible.

A number of reviewing federal courts have held that a Social Security disability claimant's acceptance of state unemployment compensation does not, in and of itself, prove an ability to work. *See, e.g.*, *Lackey v. Celebrezze*, 349 F.2d 76, 79 (4th Cir. 1965) (claimant entitled to disability benefits where no showing made that claimant actually represented to state authorities that he was able to work or that he was aware of legal requirements for unemployment compensation); *Kinsella v. Schweiker*, 708 F.2d 1058, 1066 (6th Cir. 1983) (Swygert, J., dissenting) (noting that the mere receipt of unemployment insurance benefits does not prove ability to work); *Roberts v. Callahan*, 971 F. Supp. 498 (D.N.M. 1997) (although claimant had to state she was willing to work and that she applied for some jobs in order to receive unemployment benefits, case remanded to reconsider credibility determination); *Alverio v. Chater*, 902 F. Supp. 909, 928 (N.D. Iowa 1995) (finding that claimant's simultaneous receipt of unemployment insurance benefits and application for social security disability benefits did not negate her claim of disability or indicate substantial evidence of her lack of credibility); *Riley v. Heckler*, 585 F. Supp. 278 (S.D. Ohio 1984) (claimant entitled to award of past due disability benefits despite receiving state unemployment benefits); *Flores v. Dep't of Health, Educ. and Welfare*, 465 F. Supp. 317, 322 (S.D.N.Y. 1978) (record showing that administrative law judge relied almost exclusively on claimant's receipt of unemployment benefits failed to sustain denial of claim, but rather established that claimant made *prima facie* showing that he was unable to work at his former occupation).

Accordingly, we conclude that a categorical rejection by the DDS of a Social Security disability applicant's claim of disability that is based solely upon the applicant's receipt of unemployment compensation would be inconsistent with federal requirements.

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