

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL WOODCOCK,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	
JO ANNE BARNHART	:	NO. 01-3126
Commissioner of Social Security	:	
Defendant.	:	

Memorandum and Order

YOHN, J.

April _____, 2003

Michael Woodcock (“plaintiff”) is appealing denial of his claim for disability benefits by the Commissioner of Social Security (“Commissioner”). He seeks judicial review pursuant to 42 U.S.C.A. § 405(g) of the Social Security Act (“Act”). Currently pending before the court are the parties’ dual motions for summary judgment. For the reasons explicated below, I will remand this case to the Administrative Law Judge (“ALJ”) for the limited purpose of explaining the findings discussed below.

BACKGROUND

I. Procedural History

Plaintiff originally filed for disability insurance benefits (“DIB”) on January 24, 1995 based solely on “right knee strain,” which the Commissioner denied initially and upon reconsideration. R. at 68-75. Plaintiff reapplied on March 16, 1999, this time asserting depression as his primary diagnosis and his knee condition as a secondary diagnosis. *Id.* at 150-51, 161-63. Following another denial both initially and upon reconsideration, plaintiff filed a request for a hearing, which was conducted before administrative law judge (“ALJ”) Theodore Burock on May 31, 2000. *Id.* at

150-159, 24-67. Plaintiff was represented by counsel at this hearing.

On September 27, 2000, the ALJ issued his decision denying plaintiff DIB. *Id.* at 11-23. The ALJ concluded that although plaintiff was disabled, his substance addiction was a contributing factor material to the disability determination, thereby rendering plaintiff ineligible for DIB. Thereafter, plaintiff requested review by the Appeals Council, which was denied on May 17, 2001. *Id.* at 6-7. On June 22, 2001, plaintiff filed suit in this court. Both parties filed cross motions for summary judgment and plaintiff filed a reply to the Commissioner's motion.

Plaintiff's claim was randomly assigned to a magistrate judge. In her report, the magistrate judge concluded that the ALJ's decision was supported by substantial evidence and, therefore, she recommended that this court deny plaintiff's motion for summary judgment and grant that of the Commissioner. Plaintiff filed objections to the magistrate judge's report. Oral argument was conducted before this court on March 31, 2003.

II. Factual History

The magistrate judge provided a comprehensive review of the factual history in this case. Mag. Rep. and Recom. at 2-9. Finding no reason to replicate her effort, I will rely on her portrayal of the relevant facts.

STANDARD OF REVIEW

This court reviews *de novo* the portions of the magistrate judge's report and recommendation to which plaintiff objects. 28 U.S.C. § 636(b)(1)© (2001). As a result, I may accept, reject, or modify, in whole or in part, the magistrate judge's findings or recommendations. *Id.*

“Our review of the Commissioner's final decision is limited to determining whether that decision is supported by substantial evidence.” *Hartranft v. Apfel*, 181 F.3d 358, 360 (3d. Cir.

1999) (citing 42 U.S.C.A. § 405(g) and *Monsour Medical Ctr. v. Heckler*, 806 F.2d 1185, 1190 (3d. Cir. 1986)). “Substantial evidence is more than a mere scintilla.” *Monsour*, 806 F.2d at 1190 (quoting *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 477 (1951)). It “does not mean a large or considerable amount of evidence, but rather such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Pierce v. Underwood*, 487 U.S. 552, 565 (1988) (quoted in *Hartranft*, 181 F.3d at 360). “The ‘substantial evidence’ standard of review requires that we review the whole record.” *Reefer v. Barnhart*, 2003 WL 1870909, at *2 (3d. Cir. April 14, 2003) (quoting *Smith v. Califano*, 637 F.2d 968, 970 (3d. Cir. 1981) (“Despite the deference to administrative decisions implied by this standard, appellate courts retain a responsibility to scrutinize the entire record and to reverse or remand if the [Commissioner]’s decision is not supported by substantial evidence.”)). Importantly, however, this review is not *de novo*, and the court “will not set the Commissioner’s decision aside if it is supported by substantial evidence, even if [it] would have decided the factual inquiry differently.” *Hartranft*, 181 F.3d at 360.

DISCUSSION

In response to the magistrate judge’s report and recommendation, plaintiff filed three objections. He argued that: (1) the magistrate judge applied an incorrect standard in determining that the ALJ’s finding that plaintiff’s impairment did not match or equal a listing was supported by substantial evidence;¹ (2) the magistrate judge applied an incorrect standard in addressing the ALJ’s finding that substance addiction was a material contributing factor to plaintiff’s disability; and (3) the magistrate judge applied an incorrect standard in addressing the ALJ’s finding that plaintiff had

¹ Plaintiff actually framed this objection as to the *magistrate judge’s finding* on this issue. Of course, on judicial review, the court does not render such findings but rather it simply determines if the ALJ’s finding is supported by substantial evidence. Accordingly, I have re-framed this argument into the proper context in order to reach the valid issues raised by this objection.

no mental impairment.² The issues raised by these objections require that I remand the case.

The Act “defines disability in terms of the effect a physical or mental impairment has on a person’s ability to function in the workplace.” *Heckler v. Campbell*, 461 U.S. 458, 459-60 (1983).³ It provides disability benefits only to those claimants who “are unable ‘to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment.’” *Id.* (quoting 42 U.S.C. 423(d)(1)(A)). When evaluating a claim for disability benefits, the Commissioner applies a five-step sequential analysis. 20 C.F.R. § 404.1520; *Sykes v. Apfel*, 228 F.2d 259, 262-63 (3d Cir. 2000). The Commissioner must consider, in this order, whether the claimant: (1) worked during the alleged period of disability; (2) has a severe impairment; (3) has an impairment that meets or equals the requirements of an impairment listed in Appendix 1, Subpart P of the relevant regulation; (4) has an impairment that prevents him from returning to his past relevant work; and (5) can perform any other work in the national economy. *Id.*⁴ The claimant

² These objections mirror three of the five issues that plaintiff raised in his motion for summary judgment, that: (1) the ALJ erred by not explaining his reasons for finding that step three of the disability analysis was not satisfied by plaintiff’s claim; (2) he erred in finding that substance addiction was a material contributing factor to plaintiff’s impairment; (3) the ALJ’s credibility finding is not supported by substantial evidence; (4) the ALJ erred by failing to address evidence of plaintiff’s psychological impairment and chronic pain; and (5) the ALJ improperly substituted his own medical opinion for those of qualified experts.

³ The parties acquiesce, both in their submissions and at oral argument before this court, that in order for plaintiff to qualify for DIB he must demonstrate that he was disabled within the time period from March 1, 1995 to December 31, 1997. They also agree that if claimant prevails on his DIB claim, the start date for receipt of those benefits will date back to a designated time period prior to the filing of his claim on March 16, 1999.

⁴ Specifically, the inquiry proceeds in the following manner. If the first inquiry, whether claimant worked during the time of his alleged disability, is answered in the affirmative, then the evaluation is finished and claimant is unqualified for benefits. Conversely, if the first inquiry is answered in the negative, the Commissioner considers the second. If the answer to the second inquiry is negative, then the claimant is ineligible for disability benefits. However, if this second inquiry is answered in the affirmative, the Commissioner inquires whether the impairment meets the criteria of a listed impairment. If the Commissioner concludes that it does, then a

bears the burden of proof as to steps one, two, and four of this analysis.⁵ In the present case, plaintiff properly contests, *inter alia*, the ALJ's step three analysis.

I. Step Three: Does Plaintiff's Impairment Match or Equal a Listed Impairment?

The ALJ first conducted steps one and two of the five-step analysis. Specifically, he concluded that plaintiff had not engaged in substantial gainful activity since the alleged date of his disability's onset and that plaintiff had a knee impairment and substance addiction, both of which were severe. R. at 15-16. These first two steps are uncontested. Regarding step three, the ALJ concluded that these impairments were not severe enough to meet or equal one of the listed impairments. *Id.* at 16.

Plaintiff does not contest this conclusion per se. Instead he asserts that the ALJ erred by failing to explicitly set forth his reasons for this conclusion and by placing the burden on plaintiff to prove this requirement. The court agrees. Because the absence of this explanation precludes meaningful judicial review under Third Circuit precedent, I must remand the case for such explanation.

Our court of appeals has unequivocally held that an ALJ must "set forth the reasons for his decision." *Burnett v. Commissioner of Soc. Sec. Admin.*, 220 F.3d 112, 119 (3d Cir. 2000) (citing *Cotter v. Harris*, 642 F.2d 700, 704-05 (3d Cir. 1981)). In *Burnett*, the Third Circuit applied this

presumption arises that the claimant is disabled and lacks the capacity to work. If she concludes to the contrary, she assesses the fourth inquiry, whether despite his severe impairment(s) the claimant has the capacity to return to his past work. If the answer is affirmative, then plaintiff is not disabled under the Act. If the Commissioner concludes that the claimant lacks such capacity, then she proceeds to the final step, which renders claimant disabled under the Act only if it is answered in the negative. *Sykes v. Apfel*, 228 F.3d 259, 262-63 (2000).

⁵ "Because step three involves a conclusive presumption based on the listings, no one bears that burden of proof. *Sykes*, 228 F.3d at 263. The burden of proof as to the fifth step is born by the government. *Id.* at 265.

requirement in precisely the same context as is presently before this court: the ALJ failed to explain his decision as to step three of the five-step analysis, the inquiry into whether the claimant's impairment(s) matched or equaled that of a listed impairment. *Id.* at 119-120. The ALJ in *Burnette* stated a conclusion "without identifying the relevant listed impairments, discussing the evidence, or explaining his reasoning." *Id.* at 119. According to our court of appeals, without such information, the "ALJ's conclusory statement . . . is beyond meaningful judicial review." *Id.* at 119. Without the ability to meaningfully review the ALJ's conclusion on this issue, the Third Circuit was compelled to "vacate and remand the case for a discussion of the evidence and an explanation of reasoning supporting the determination that [plaintiff]'s severe impairment does not meet or is not equivalent to a listed impairment." *Id.* at 120.⁶ The rule of *Burnett* applies in the present case and requires the same result.

In this case, the ALJ's written opinion twice references the step three inquiry, once in the "Evaluation of the Evidence" section and the other in the "Finding" section. Both instances are nothing more than conclusory statements.⁷ Like the ALJ in *Burnett*, the ALJ in the present case

⁶ The court explained that:

"[w]hile the burden is on the claimant to present medical findings that show his or her impairment matches a listing or is equal in severity to a listed impairment . . . [t]he applicable regulations indicate that it is within the realm of the ALJ's expertise to determine the closest applicable listed impairment, based on the medical evidence, when examining whether a claimant's impairments meet or equal a listed impairment."

Burnett v. Commissioner of Soc. Sec. Admin., 220 F.3d 112, 120 (3d Cir. 2000) (citing 20 C.F.R. § 404.1526 (1999)).

⁷ The ALJ's first mention of this inquiry states "[a]lthough the claimant has severe impairments, these impairments are not severe enough to meet or medically equal one of the impairments listed in Appendix 1, Subpart P, Regulations No. 4." R. at 16. The second mention consists of a similar statement: "These medically determinable impairments do not meet or

failed to identify the relevant listed impairments contained in Appendix 1, Subpart P, discuss the evidence, or explain his reasoning as to why plaintiff's impairments did not meet or medically equal any of those listed. Similarly, therefore, this finding is beyond meaningful judicial review because this court cannot discern whether this conclusion, currently groundless on the record, is supported by substantial evidence. For this reason, under *Burnett*, I am compelled to remand the case so that the ALJ can provide the tools this court needs in order to engage in such review.⁸

Just as our court of appeals in *Burnett* instructed, “[o]n remand, the ALJ shall fully develop the record and explain his findings at step three, including an analysis of whether and why [plaintiff]’s severe impairments . . . are or are not equivalent in severity to one of the listed impairments.” *Id.* at 120. Importantly, however, the ALJ’s elaboration should be limited to only those relative listed impairments that might include the impairments that the ALJ has already found to be severe, which include plaintiff’s knee condition and his substance addiction. *Id.*⁹

medically equal one of the listed impairments in Appendix 1, Subpart P, Regulation No. 4.” *Id.* at 21.

⁸ Remanding this case for this limited reason does not reflect anything more than the court’s need for such information in reviewing the ALJ’s decision. The court can hypothesize numerous sound reasons that might have informed the ALJ’s conclusion on this issue, however our court of appeals does not permit such guesswork in the name of judicial review.

⁹ To lend clarity to the ALJ’s review on remand, I will briefly address another argument raised by plaintiff on the issue of step three of the analysis. Plaintiff argues, in challenging the finding that his impairment did not meet or equal one of those enumerated in the social security regulations, that the ALJ erred because he “failed to obtain an updated medical opinion after additional medical evidence and medical findings were entered into the record.” Obj. to Rep. at 4. Plaintiff is incorrect.

In pertinent part, the ruling on which plaintiff relies states that “when additional medical evidence is received that in the opinion of the [ALJ] or the Appeals Council may change the State agency medical or psychological consultant’s finding that the impairment(s) is not equivalent in severity to any impairment in the Listing of Impairments ” then “[the adjudicator] must obtain an updated medical opinion from a medical expert.” Soc. Sec. Rul. 96-6p. In his motion for summary judgment, plaintiff highlights two examples of such “additional evidence”: (1) “additional medical evidence submitted after the [July 30, 1999 medical equivalence]

Having found that remand is required, the court will review two more problematic issues so that the ALJ can address them on remand.

II. Effect of Substance Addiction on Plaintiff's Impairment

Plaintiff's second argument in his motion for summary judgment is that the ALJ erred in finding that substance addiction was a material contributing factor to plaintiff's impairments. I do not agree with plaintiff's position.

Under the Act, when a plaintiff's drug addiction is a contributing factor material to the determination of disability, plaintiff is ineligible for benefits. 42 U.S.C. 423 (d)(2)(C).¹⁰ Importantly, the issue of substance addiction does not arise unless and until it is determined initially that the plaintiff is disabled. 20 C.F.R. § 404.1535(a). Accordingly, first the ALJ must determine if the plaintiff is disabled. If the ALJ finds that plaintiff is disabled, then the second step is to consider whether plaintiff has a substance addiction. If the ALJ concludes that plaintiff does, then the third

determination" and (2) "the testimony of Mr. Woodcock and his wife." Pl. Mot for Sum. J. at 12.

Contrary to plaintiff's reliance, the first piece of evidence that he cites does not constitute relevant additional evidence, and the second piece *was* considered by the ALJ. As to the first, as noted in defendant's motion for summary judgment, plaintiff's insured status expired on December 31, 1997, a fact that he acknowledged at his administrative hearing. Def. Mot. for Sum. J. at 28; R. at 26. Moreover, even if this "additional" evidence could be considered as relating back to the relevant time period, there is no indication that it is in any way substantially different than the evidence collected before, which was factored into the Commissioner's decision. Even plaintiff is unable to point to any part of the "additional" evidence that could possibly change the agency's decision. Regarding the second piece of evidence, the ALJ issued a specific finding as to the testimony of plaintiff and his wife. In fact, he found them "not totally credible." Tr. at 22; *see also* Mag. Rep. and Recom. at 15-18. Accordingly, the ALJ was not required to obtain an updated medical opinion and need not on remand for these reasons.

¹⁰ The Act was amended on March 29, 1996 to include this rule. The relevant time period at issue for plaintiff's disability claim is March 1, 1995 to December 31, 1997, which includes time before the enactment of this amendment. Our court of appeals has held that the amendment's applicability depends on the date that the claim is finally adjudicated before the Commissioner. *Torres v. Chater*, 125 F.3d 166, 171 (3d Cir. 1997). If the final date of adjudication of the plaintiff's claim is after March 29, 1996, then the amendment applies. Consequently, there is no question that the amendment applies to plaintiff's case.

step is to determine whether the drug addiction is a contributing factor material to the disability determination. If it is, plaintiff is not entitled to benefits. *Id.* § 404.1535(b)(2)(I). In order to make this determination, the ALJ must “evaluate which of [plaintiff’s] current physical and mental limitations . . . would remain if [plaintiff] stopped using drugs or alcohol and then determine whether any or all of [plaintiff’s] remaining limitations would be disabling.” 20 C.F.R. § 404.1535(b)(2).¹¹ If the answer to this latter inquiry is negative, then the substance addiction is a contributing factor material to the disability determination, and therefore, the ALJ must find plaintiff not disabled.

The ALJ proceeded properly through this analysis. First, he found that plaintiff was disabled. R. at 14-15. Second, he considered whether plaintiff suffered from drug addiction. *Id.* at 16-21. After finding that he did, the ALJ engaged the third step of the analysis and properly considered whether that addiction was a contributing factor material to the disability determination. *Id.*¹² In order to this, the ALJ determined if any impairments would remain without the drug

¹¹ At oral argument before this court, plaintiff asserted that the regulations require that a medical evaluation be conducted subsequent to a one month drug free period in order to assess a plaintiff’s functional capacity without the effects of drugs. Although given the opportunity to point this court to that provision, or to any supporting source for that matter, plaintiff was unable to do so. Consequently, I find no reason to require this of the ALJ, especially where, as here, the plaintiff flatly refuses multiple medical opinions that he undergo detoxification.

¹² Specifically, the ALJ stated the following:

The undersigned finds that with the effects of drug addiction, the claimant is incapable of sitting, standing, walking, lifting, carrying and performing repetitive tasks for an 8-hour workday on a regular and continuing basis. Without considering the effects of drug addiction, the claimant can perform sedentary work activity with no squatting, no operation of foot controls, no repetitive bending, no crawling, no climbing, no heights, no operation of motor vehicles, no exposure to dangerous equipment and involving only routine repetitive tasks.

R. at 17.

addiction, and finding that one would, he properly considered whether the remaining impairment would render plaintiff disabled. Because the ALJ found that the only remaining impairment would not result in plaintiff's disability, the substance addiction was a contributing factor, material to the determination; thus, plaintiff was ineligible for benefits. Each of these three findings made by the ALJ is supported by considerably more than substantial evidence except for the initial conclusion regarding plaintiff's disability with the effects of drug addiction. This deficiency, however, is not fatal to the ALJ's determination.

Initially, the ALJ found that if one considered the effects of plaintiff's drug addiction, he was disabled, yet the ALJ did not explain the evidentiary basis for this conclusion. If there is insubstantial evidence of disability to support this finding, then plaintiff is not entitled to benefits. If, however, it is true that substantial evidence supports the finding that plaintiff is disabled, then the remaining analysis that the ALJ conducted is proper, and since the resulting findings are supported by substantial evidence, plaintiff is not entitled to benefits. Consequently, under either scenario, plaintiff is not entitled to benefits.

As to the balance of the analysis after the initial determination of disability, there is plentiful evidence that plaintiff suffered from drug addiction and that without this addiction, plaintiff would not be disabled. Regarding the former, there are the medical reports from Dr. Batta dated February 16th and 25th, 1994. R. at 136-40. In these notes, Dr. Batta revealed that in his opinion, plaintiff was "over-reacting to his pain and he has a drug seeking behavior." *Id.* at 140. The latter conclusion was in part based on plaintiff's assertion that "[i]f I don't get relief, I'll . . . buy drugs from the street and try to take care of this." *Id.* at 139.

Dr. Stephenson diagnosed narcotics addiction when plaintiff was admitted to the hospital in April 1997. R. at 402. There is also a report from Dr. Rosenfeld from April 17, 1996. *Id.* at 243-53.

Dr. Rosenfeld reported that on May 5, 1994, plaintiff had seen a professor of anesthesiology at Jefferson Pain Center, Dr. de Jong, who concluded that plaintiff “was a symptom magnifier relying heavily on opioids and put little effort into coping with the such as losing weight and doing extensive therapy.” *Id.* at 251.

On April 25, 1995, Dr. Lin decided to discontinue writing prescriptions for plaintiff because he refused to undergo a detoxification procedure. R. at 360. The next day, upon learning of this decision, plaintiff became hostile and asserted that he had other ways of getting his medication. *Id.* Additionally, a hospital note dated March 14, 1995 revealed that plaintiff opposed a detoxification stay. *Id.* at 362. On December 16, 1996, Dr. Lyons, noting that plaintiff was taking a “massive amount of narcotics,” advised that plaintiff undergo “an aggressive drug rehabilitation program . . . for him to learn other techniques to control his pain symptom without having to resort to narcotics.” R. at 262-66.

This abundant evidence demonstrates that plaintiff had a substance addiction, which satisfies step two of the drug addiction analysis. As to the final step, after removing the effects of plaintiff’s drug addiction, the one remaining impairment found was plaintiff’s knee condition. R. at 15-16. There is substantial evidence in the form of numerous medical reports to demonstrate that plaintiff’s knee condition alone would not render him unable to perform meaningful work.

On July 28, 1999 an agency physician conducted a Physical Residual Functional Capacity Assessment and concluded that plaintiff could occasionally lift and/or carry and push and/or pull 50 pounds, frequently 25 pounds, stand and/or walk at least two hours in a typical eight-hour workday, and sit for six of those hours. R. at 384. On April 27, 1998, Dr. Duda reviewed plaintiff’s past medical reports and physically examined him, and he stated that “I see no reason why he could not be gainfully employed on a full-time basis without restriction with respect to that [knee] injury.” *Id.*

at 259. A medical examination conducted by Dr. Rosenfeld on April 17, 1996 which focused on plaintiff's injured right knee, thoroughly explained in a ten-page report how the examination was "normal. There were no significant physical findings other than his inability to do a full squat." *Id.* at 247. At the same time, this doctor also concluded that plaintiff could work with no kneeling or squatting. *Id.* at 252. On December 16, 1996, Dr. Lyons reviewed an MRI scan of plaintiff's right knee from October of that same year and he asserted that "[c]ertainly, [plaintiff] would be able to work at a sedentary work position" *Id.* at 265.

Additionally, on November 9, 1994, a neurological consult with Dr. Bird, based on an electromyographic study of plaintiff's right knee, revealed that "there [was] no neurologic explanation for weakness or ongoing pain." *Id.* at 239.¹³ On February 16, 1994, Dr. Batta conducted a "physical workup" of plaintiff, focusing on his knee condition, and concluded that plaintiff could perform sedentary work. *Id.* at 136. On September 2, 1993, Dr. Sapega examined plaintiff's knee condition, submitted a four-page summary explaining his findings, and reported that plaintiff's only restriction was to avoid squatting, kneeling, and lifting weights over 50 pounds frequently. *R.* at 442. These medical reports indicate that plaintiff's self-reports about his pain and capabilities were unreliable and thus do not support disability based solely on his physical impairment.¹⁴

¹³ Although the medical reports reviewed in this paragraph date back prior to the relevant insured period, they are relevant to determining the functional impact of plaintiff's injury, which he alleges occurred in October of 1992.

¹⁴ Plaintiff asserted that he can only walk one block slowly, stand five minutes, sit five to ten minutes and that he lies down 99 percent of the time. There is substantial evidence supporting the ALJ's articulation that:

[t]he above medical opinions indicate that the claimant could work at least at the sedentary level and the claimant admitted that he could do a sit down job. Given the medical opinions and the normal findings, as well as the opinion that his pain

Based on this substantial evidence, the ALJ made findings with respect to plaintiff's functional capacity considering only the knee condition and excluding the drug addiction. R. at 22.¹⁵ Then, the ALJ properly applied this functional capacity to determine whether plaintiff could perform his past job¹⁶ or any jobs in the national economy.¹⁷ *Id.* at 22. Because there are numerous jobs in the national economy that could be performed with the restrictions that plaintiff has, he is not disabled under the Act when only his knee impairment is considered.¹⁸ Consequently, there is substantial evidence that plaintiff's drug addiction was a contributing factor material to the initial determination that he was disabled.

If plaintiff should not have been deemed disabled at the outset of the ALJ's analysis, he would not be entitled to benefits. Conversely, if that initial disability determination was supported by substantial evidence, I conclude that there is more than substantial evidence that the only

is overstated, the undersigned finds that the claimant is not credible.”

R. at 18.

In addition to plaintiff's own reporting, the ALJ properly considered contradictory evidence from Dr. Rosenfeld and plaintiff's physical therapist. R. at 19-20. As to the former, it is a minority opinion by far in comparison to the numerous opinions that it contradicts, as listed above. *Id.* at 19. Regarding the latter, the ALJ concluded that the therapist was less qualified than the medical doctors listed above and was less reliable because there was no basis provided for the therapist's opinion. R. at 19-20.

¹⁵ Specifically, the ALJ found that “without the effects of drug addiction, the claimant can perform sedentary work activity with no squatting, no operation of foot controls, no repetitive bending, no crawling, no climbing, no heights, no operation of motor vehicles, no exposure to dangerous equipment and involving only routing repetitive tasks.” R. at 22.

¹⁶ As explained above, this is step four of the five-step overarching disability analysis. See *supra*, at 4-5.

¹⁷ This is step five of the overarching disability analysis. See *supra*, at 4-5.

¹⁸ The ALJ lists as examples a machine tender, a surveillance monitor, and an order clerk. R. at 22.

impairment that would remain without plaintiff's drug addiction is his knee impairment which alone does not render him disabled; as such, plaintiff had a substance addiction that contributed materially to the disability determination which disqualifies him for benefits. Thus, under either possibility, plaintiff is ineligible for benefits. Therefore, the ALJ need not address this issue on remand.

III. Mental Impairment Independent of Substance Addiction

In his March 16, 1999 application for benefits, plaintiff claimed disability based in part on depression, which the ALJ recognized in his opinion. R. at 15.¹⁹ Despite this, however, the ALJ's opinion does not reflect any analysis regarding the depression claim; therefore, it cannot be meaningfully reviewed.

The ALJ stated simply that "[t]he claimant does not have any other mental impairment with or without the effects of drug abuse." R. at 16. Nowhere in the opinion does the ALJ explain why he rejected plaintiff's depression claim. Presumably, he rejected it because plaintiff's evidence of such impairment is exceedingly weak at best.²⁰ However, judicial review is not meaningful when based on such presumptions. Therefore, on remand the ALJ should explain his rejection of

¹⁹ As the court explained above, any evidence of depression must relate back to the relevant time period, which ended on December 31, 1997, or it is irrelevant to plaintiff's disability determination.

²⁰ At oral argument before this court on March 31, 2003, plaintiff's counsel cited three medical reports that supposedly establish plaintiff's depression. First, he cited Dr. Satish K. Batta, who stated in a letter that "if [plaintiff] is given intensive psychological therapy, he may be able to return in about three to four months." R. at 136. Notably, directly following that statement, Dr. Batta also stated that "for [plaintiff] to do sedentary work or a desk type of work . . . [h]e can start working almost immediately." *Id.* Second, plaintiff cited Dr. Karl Rosenfeld who stated in a letter that "there is a strong psychological overlay to [plaintiff]." *Id.* at 247. Notably, Dr. Rosenfeld explains that he reached this conclusion based primarily on Dr. Batta's assertion that plaintiff had some psychological issues. *Id.* Third, plaintiff cited Dr. James Stephenson for the fact that plaintiff was prescribed Prozac and Zoloft. *Id.* at 395. The court notes also that Dr. Stephenson stated that plaintiff had a history of depression, however he also relayed that the Prozac was treatment for plaintiff's "irritability." *Id.* at 401-02. This is the only evidence plaintiff could cite at oral argument for the assertion that he suffers from depression.

plaintiff's claim that depression contributes to his impairments and renders him disabled.

CONCLUSION

For the aforementioned reasons, I will remand this case to the ALJ for clarification on two issues. First, the ALJ should specifically elucidate the listed impairments that are related to plaintiff's severe impairments and the reasons that plaintiff's impairments do not match or medically equal one of them. Second, the ALJ should explain his evaluation of plaintiff's claim of depression. Once these issues are addressed, meaningful judicial review will be possible so that the court may determine if these findings are supported by substantial evidence.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL WOODCOCK,
Plaintiff,

v.

JO ANNE BARNHART,
Commissioner of Social Security
Defendant.

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CIVIL ACTION

NO. 01-3126

ORDER

And now on this _____ day of April, 2003, upon consideration of the parties' cross-motions for summary judgment (Docs. 6 and 7), plaintiff's reply (Doc. 9) and after careful review of the Report and Recommendation of United States Magistrate Judge, and plaintiff's objections thereto (Doc. 12), it is hereby ORDERED that:

1. The objections are SUSTAINED in part;
2. Plaintiff's motion for summary judgment is DENIED;
3. Judgment is entered VACATING the decision of the Commissioner and the matter is remanded to the Commissioner for further proceedings consistent with this memorandum opinion.

William H. Yohn, Jr., Judge