

United States Court of Appeals
For the Eighth Circuit

No. 24-2113

Christine Louise Kensinger

Plaintiff - Appellant

v.

Michelle King, Acting Commissioner of the Social Security Administration¹;
Judge Walter Hellums, Administrative Law Judge

Defendants - Appellees

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: February 6, 2025
Filed: February 12, 2025
[Unpublished]

Before LOKEN, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

¹Michelle King has been appointed to serve as Acting Commissioner of the Social Security Administration, and is substituted as appellee pursuant to Federal Rule of Appellate Procedure 43(c).

Christine Kensinger appeals the district court's² order affirming the denial of disability insurance benefits. We agree with the court that substantial evidence in the record as a whole supports the adverse decision. See Swink v. Saul, 931 F.3d 765, 769 (8th Cir. 2019) (standard of review).

Specifically, we find that substantial evidence supported the Administrative Law Judge's (ALJ's) conclusion that Kensinger's exposure to mold was not a severe impairment. See Page v. Astrue, 484 F.3d 1040, 1044 (8th Cir. 2007). The ALJ did not err in discounting the medical opinions on housing assistance forms, which did not identify specific functional limitations, and used a definition of "disability" that differs from the definition of "disability" in the Social Security Act. See 42 U.S.C. § 423(d)(1); KKC v. Colvin, 818 F.3d 364, 371 (8th Cir. 2016). While Kensinger also argues that the ALJ erred in failing to consider records from her chiropractic provider, that is not an acceptable medical source for determining disability. See Miller v. Colvin, 784 F.3d 472, 478 (8th Cir. 2015); Craig v. Apfel, 212 F.3d 433, 436 (8th Cir. 2000).

Accordingly, we affirm the judgment of the district court. We also deny Kensinger's motion to supplement the record on appeal.

²The Honorable Brian C. Wimes, United States District Judge for the Western District of Missouri.

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 24-2113

Christine Louise Kensinger

Plaintiff - Appellant

v.

Michelle King, Acting Commissioner of the Social Security Administration; Judge Walter Hellums, Administrative Law Judge

Defendants - Appellees

Appeal from U.S. District Court for the Western District of Missouri - Springfield
(6:23-cv-03327-BCW)

JUDGMENT

Before LOKEN, KELLY, and ERICKSON, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

February 12, 2025

Order Entered in Accordance with Opinion:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 24-2113

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Appellant

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Appellees

Appeal from U.S. District Court for the Western District of Missouri - Springfield
(6:23-cv-03327-BCW)

MANDATE

In accordance with the opinion and judgment of February 12, 2025, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

April 21, 2025

Clerk, U.S. Court of Appeals, Eighth Circuit

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

CHRISTINE LOUISE KENSINGER)
)
Plaintiff,)
)
v.) Case No. 6:23-CV-03327-BCW
)
)
SOCIAL SECURITY)
ADMINISTRATION et al.,¹)
)
Defendants.)

ORDER

Before the Court is Plaintiff's pro se brief seeking judicial review of a final decision of Defendant Social Security Administration (Doc. #7), Defendant's brief in support of the administrative decision and in response to Plaintiff's brief (Doc. #8), and Plaintiff's reply (Doc. #9).

BACKGROUND

This matter involves the appeal of the Commissioner's final decision denying Plaintiff's application for a period of disability and disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. § 401. The Court may review the Commissioner's final decision pursuant to 42 U.S.C. § 405(g).

On February 10, 2021, Plaintiff filed a Title II application alleging disability beginning November 18, 2016. (Doc. #6-3). The claim was initially denied on June 30, 2021, and denied upon reconsideration on November 17, 2021. Plaintiff's claim was further reviewed by an

¹ Plaintiff filed her complaint against the Social Security Administration and Administrative Law Judge Walter Hellums.

administrative law judge (“ALJ”) during a hearing held on February 13, 2023.² The ALJ ultimately found Plaintiff was not disabled.

The ALJ’s Findings and Conclusions are summarized as follows: (1) Plaintiff has not engaged in substantial gainful activity since January 29, 2019; (2) Plaintiff has the following severe impairments: cervical spine degenerative changes, thoracolumbar degenerative changes, right knee degenerative changes, and hyperthyroidism (20 CFR 404.1520(c)); (3) Plaintiff’s impairments do not meet or medically equal a listed impairment in 20 C.F.R. Part 404, Subpart P, Appendix 1; (4) Plaintiff has the residual functional capacity (“RFC”) to perform the full range of medium work as defined in 20 CFR 404.1567(c); (5) under this expedited process, the ALJ proceeded directly to step five of the sequential evaluation process because the ALJ had insufficient information about Plaintiff’s past relevant work history to make the findings required at step four (20 CFR 404.1520(h)); (6) Plaintiff was 40 years old at the time of her application for benefits; (6) Plaintiff has at least a high school education; (7) transferability of job skills is not an issue; (8) considering Plaintiff’s age, education, work experience, and RFC, jobs exist in significant numbers in the national economy which Plaintiff can perform, such as Box Bender, Stores laborer, and Packager; and (9) based on the foregoing, Plaintiff has not been under a disability for the relevant period. (Doc. #6-3).

LEGAL STANDARD

The Court must determine whether the Commissioner’s finding that Plaintiff is not disabled was “supported by substantial evidence on the record as a whole.” Gragg v. Astrue, 615 F.3d 932, 938 (8th Cir. 2010) (citation omitted). This determination requires review of the entire record, including both evidence in support of, and in opposition to, the Commissioner’s decision. Fountain

² Plaintiff discharged her attorney on February 7, 2023. At the hearing, the ALJ informed Plaintiff of her right to representation but Plaintiff chose to proceed with the hearing and testify without assistance of counsel. (Doc. #6-3 at 11).

v. R.R. Ret. Bd., 88 F.3d 528, 530 (8th Cir. 1996). “The court’s role is not to reweigh the evidence or try the issues *de novo*.” Craig v. Chater, 943 F. Supp. 1184, 1188 (W.D. Mo. 1996) (citing McClees v. Shalala, 2 F.3d 301, 302 (8th Cir. 1994)). When supported by substantial evidence, the Commissioner’s findings are conclusive and must be affirmed. Richardson v. Perales, 402 U.S. 389, 401 (1971).

Substantial evidence means “more than a mere scintilla” of evidence. Id. Rather, it “is relevant evidence that a reasonable mind would accept as adequate to support the Commissioner’s conclusion.” Wheeler v. Apfel, 224 F.3d 891, 894 (8th Cir. 2000) (citation omitted). The substantial evidence standard, however, “presupposes a zone of choice within which the decisionmakers can go either way, without interference by the courts.” Clarke v. Bowen, 843 F.2d 271, 272 (8th Cir. 1988) (citation omitted). “An administration decision is not subject to reversal merely because substantial evidence would have supported an opposite decision.” Id. at 272-73 (citation omitted). Hence, “if it is possible to draw two inconsistent positions from the evidence and one of those positions represents the agency’s findings, [the Court] must affirm the decision.” Roe v. Chater, 92 F.3d 672, 675 (8th Cir. 1996) (citation omitted).

Typically, an individual claiming disability benefits has the burden of proving he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that has lasted or can be expected to last for a continuous period of not less than twelve months. 42 U.S.C. § 423(d)(1)(A). If the claimant succeeds, the burden of production shifts to the Commissioner to establish the claimant can perform some other type of substantial gainful activity in the national economy. See Young v. Apfel, 221 F.3d 1065, 1069 n. 5 (8th Cir. 2000); 20 C.F.R. § 404.1560(c)(2) (2014).

ANALYSIS

Plaintiff solely argues this Court should reverse and remand the ALJ's decision because the ALJ³ failed to consider all medical records indicating she was disabled. Specifically, Plaintiff argues the ALJ did not consider the effects of her exposure to black mold when developing his findings.

There is no evidence in the record that supports Plaintiff suffered from a debilitating condition due to mold exposure other than through her own correspondence and testimony.⁴ In a Social Security case, the "ALJ bears a responsibility to develop the record fairly and fully, independent of the claimant's burden to press h[er] case." Snead v. Barnhart, 360 F.3d 834, 838 (8th Cir. 2004). When a claimant alleges symptoms of disabling severity, the Social Security Administration requires ALJs to use a two-step process for evaluating an individual's symptoms. SSR 16-3p, 2016 SSR LEXIS 4, *5 (Mar. 16, 2016). First, the ALJ must determine whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms. Id. Second, the ALJ must evaluate the intensity and persistence of an individual's symptoms such as pain and determine the extent to which an individual's symptoms limit his or her ability to perform work-related activities. Id. at *9.

Here, the ALJ complied with SSR 16-3p when considering Plaintiff's alleged mold impairment. As to step one, the ALJ determined that Plaintiff's alleged impairments could reasonably be expected to cause the alleged symptoms. (Doc. #6-3 at 19). As to step two, The ALJ held that the statements concerning the intensity, persistence and limiting effects of these

³ Plaintiff asserts arguments against two ALJs. One of the ALJs is involved in a separate case in a different court. This Court shall only consider the findings from ALJ Walter Hellums as his ruling is the only ruling relevant to the above-captioned matter.

⁴ Plaintiff failed to submit or inform the ALJ of any written evidence she wanted the ALJ to consider within the required timeframe. 20 C.F.R. 404.935 (a) and (b). Therefore, the ALJ did not admit any additional evidence to the record.

symptoms are not consistent with the medical evidence and other evidence in the record. (Doc. #6-3 at 19-20). The ALJ held the following in consideration of Plaintiff's exposure to mold:

Regarding the claimant's mold exposure impairment, the most recent allergy clinic treatment record shows she was doing much better after moving from her moldy home, she was not needing any allergy medications, and she denied any fever, coughing, shortness of breath, diarrhea, anosmia, loss of taste, headache, and sore throat symptoms (Ex. B16F/1). Also, May 2021[,] chest imaging studies were negative for any acute findings (Ex. B11F/16-17). Consistent with this evidence, a consultative examiner reported normal examination signs (Exs. 9F/2-4, 10F/1-3). Based on this evidence, I find it did not limit her ability to perform basic work activities for any 12-month consecutive period during the period at issue and was non-severe.

(Doc. #6-3 at 15). The ALJ referred to evidence in the record that supports his decision as to why Plaintiff's exposure to mold did not disable her or limit her ability to perform basic work activities. Therefore, contrary to Plaintiff's argument, a review of the record demonstrates that the record was sufficiently developed as to Plaintiff's exposure to mold.

Additionally, Plaintiff argues that the ALJ's decision should be reversed because there is evidence in the record that supports that her exposure to mold has disabled her. However, even if there was merit to Plaintiff's argument, which there is not, it is still not a sufficient reason to remand. Clarke, 843 F.2d at 272-73. ("An administration decision is not subject to reversal merely because substantial evidence would have supported an opposite decision."). Even if it is possible to come to two different decisions from the record, if one of those decisions represents the ALJ's findings, the Court must affirm the decision. Roe, 92 F.3d at 675. Here, there is substantial evidence in the record that supports the ALJ's decision. Accordingly, it is hereby

ORDERED, pursuant to Section 405(g), the Commissioner of Social Security's determination is AFFIRMED.

IT IS SO ORDERED.

DATE: April 30, 2024

/s/ Brian C. Wimes

JUDGE BRIAN C. WIMES

UNITED STATES DISTRICT COURT

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No: 24-2113

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ORDER

The petition for rehearing by the panel is denied.

April 14, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler