

C. Appeal Item Number Three (3)

Transferable Skills Analysis dated April 28, 2006 was based on incorrect basic earnings information and incorrect wage requirement. None of the three occupational alternatives meet the sixty (60) percent threshold required by contractual and procedural guidelines. The denial of benefits based on the TSA/LSM is therefore unequivocally invalid.

On April 25, 2006, Ms. Latonya Puckett prepared a Transferable Skills Analysis-Labor Market Survey Referral form. The form noted the following:

1. Sixty (60) percent earning threshold required based on contract or procedure.
2. The initial covered earnings (base earnings) listed as \$2,250
3. The wage requirement was listed as \$1350 (2250 X earning threshold of .60)

First, Ms. Puckett's calculation of initial covered earnings (base earnings), however, is incorrect. The LTD Policy No. 0597324 defines base earnings as "the employee's rate of pay reported by employer." On March 19, 1997, XXXX, reported to Cigna in a flexible compensation administration form that Mr. XXXX's frozen base annual salary was \$45,168. Therefore his "initial covered earnings" (base salary) should have been \$3,764 (\$45,168/12) **NOT** the \$2,250 Ms. Puckett incorrectly input on the aforementioned TSA/LMS referral form. Consequently the wage requirement was also incorrect. It should be listed as \$ 2,258/ month (\$3,764 X .60) **NOT** the \$1,350 Ms. Puckett erroneously input on the form.

Thus, for an occupation to meet the required and correct sixty percent (60%) earning threshold, it must provide a minimum annual wage of \$27,096 (\$2,258 X 12) to fall within the governing contractual or procedural guidelines.

On April 28, 2006 Cigna performed an Transferable Skills Analysis - Labor Market Survey in response to Ms. Puckett's aforementioned TSA/LMS referral form. The occupational alternatives presented by Cigna were as follows: Customer Complaint Clerk-\$23,500, Customer Order Clerk-\$24,700 and Telemarketer-\$21,600.

ALL THREE OF THESE PURPORTED OCCUPATIONAL ALTERNATIVES PROFFERED IN CIGNA'S TSA/LSM DATED April 28, 2006 FAIL TO MEET THE REQUIRED SIXTY PERCENT (60%) EARNING THRESHOLD BASED ON CONTRACTUAL OR PROCEDURAL GUIDELINES (\$27,096).

Further evidence supporting this appeal item can be found in Cigna claim file note dated August 8, 1996. Therein, Cigna employee Ms. Becky Schomer correctly identifies Mr. XXXX's proper monthly base earnings to be \$3,764, as well as the correct monthly sixty (60) percent earning threshold of \$2,258 in connection with the TSA Cigna

performed in 1997. Furthermore, Ms. Shomer's Cigna's claim note dated February 13, 1997, specifically discusses the requirement that TSA occupational alternatives must be "within the 60-80% range."

In conclusion, as a direct result of the erroneous reporting of Mr. XXXX's initial covered earnings (base earnings), the occupational alternatives proffered by Cigna in this case do not meet the sixty (60) percent earnings threshold. Accordingly, Cigna's denial of benefits on May 2, 2006 which admittedly was based upon the occupational alternatives/conclusions of the April 28, 2006 TSA/LMS performed by Cigna is invalid and must be reversed.

Notably, Cigna was repeatedly requested to provide copies of Cigna policy or guidelines that were considered or relied upon in completing the TSA referral and internal TSA. Cigna's attorney, XXXX, in correspondence dated September 21, 2006 denied this proper request and responded that Cigna policy or guideline "was not relied upon."