



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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[REDACTED]  
MI [REDACTED]

Date Mailed: May 31, 2024  
MOAHR Docket No.: 24-001756  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250. After due notice, a telephone hearing was held on April 4, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Medical Contact Worker.

Exhibit A, pp. 1-301 was admitted into the record as evidence on behalf of the Department.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. Petitioner was given the opportunity to submit additional records including a DHS-49-D Psychiatric/Psychological Examination Report and DHS-49-E Mental Residual Functional Capacity Assessment completed by Petitioner's psychiatrist. However, there were no records received by the May 6, 2024, due date. The record was subsequently closed on May 6, 2024, and the matter is now before the undersigned for a final determination on the evidence presented.

### **ISSUE**

Did the Department properly determine that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or around [REDACTED] 2024, Petitioner submitted an application seeking cash assistance benefits on the basis of a disability.

2. On or around February 7, 2024, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program. (Exhibit A, pp. 8-22)
3. On or around February 8, 2024, the Department sent Petitioner a Notice of Case Action denying his SDA application based on DDS' finding that he was not disabled.
4. On February 22, 2024, Petitioner submitted a timely written Request for Hearing disputing the Department's denial of his SDA application. (Exhibit A, pp. 3-6)
5. Petitioner alleged nonexertional/mental disabling impairments due to bipolar I disorder, posttraumatic stress disorder (PTSD), antisocial personality disorder, and attention deficit disorder (ADD)/attention deficit hyperactivity disorder (ADHD). Petitioner confirmed that he did not have any alleged physical or exertional impairments.
6. As of the hearing date, Petitioner was [REDACTED] years old with an [REDACTED] 1995, date of birth; he was [REDACTED] and weighed [REDACTED] pounds.
7. Petitioner's highest level of education is 10<sup>th</sup> grade. Petitioner did not obtain a high school or General Education Development (GED) diploma. Petitioner has reported employment history of work as a laborer. Petitioner has reportedly not been employed since 2022. (Exhibit A, pp. 28-34, 48-55)
8. Petitioner has a pending disability claim with the Social Security Administration (SSA).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (April 2017), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason

of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Determining whether an individual is disabled for SSI purposes requires the application of a five step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has the residual functional capacity to perform past relevant work; and (5) has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945. If an individual is found disabled, or not disabled, at any step in this process, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

### **Step One**

The first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Petitioner was not working during the period for which assistance might be available. Because Petitioner was not engaged in SGA, he is not ineligible under Step 1, and the analysis continues to Step 2.

### **Step Two**

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has

lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the de minimis standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.*; SSR 96-3p.

The medical evidence presented at the hearing was thoroughly reviewed and is briefly summarized below.

A letter submitted by Petitioner's Case Manager at Hegira Health indicates that Petitioner is under their care for treatment of bipolar I disorder, PTSD, ADD/ADHD and antisocial personality disorder. The letter indicates that he is seen regularly for medication reviews and case management. (Exhibit A, p. 118)

Records from Petitioner's mental health treatment indicate that he is diagnosed with bipolar I disorder, PTSD, ADD/ADHD and antisocial personality disorder for which he receives case management treatment as well as medication management under the care of a psychiatrist. Progress notes from Petitioner's November 20, 2023 medication review appointment indicate that Petitioner is prescribed adderral 30 mg, Depakote 500 mg, and trazodone 150 mg. Petitioner reported that his medications are helping him and

did not indicate he had any side effects. During the appointment, Petitioner was alert, cooperative, and engaged. His speech was coherent and his gait and station were normal. Petitioner was assessed as having good judgment/insight and average intellectual functioning. His thought process was goal directed and his recent and remote memory was good. He was able to maintain focus and his concentration was adequate. During the appointment, Petitioner did not report any suicidal or homicidal ideations. There were also no visual, auditory, tactile, olfactory or knesthetic hallucinations, as Petitioner's thought content was within normal limits. Records from Petitioner's [REDACTED] 2023, [REDACTED] 2023, [REDACTED], 2023, medication review appointments included similar findings. During his [REDACTED], 2023, medication review appointment, Petitioner reported history of mood swings and attention deficit. (Exhibit A, pp. 169-177, 183-206)

Targeted case management progress notes from [REDACTED], 2023 indicate that Petitioner reported that he has been applying for jobs. There were no risks identified upon assessment and Petitioner reported adherence to prescribed medications. During the appointment, Petitioner reported that his concentration has been a lot better while on Adderall but keeps getting denied for jobs due to failing drug screens. Petitioner reported to the social worker that he has informed potential employers about his medications but all have indicated he is too big of a risk for them. Additional case management progress notes and an Integrated BioPsychosocial assessment from Petitioner's 2023 treatment were also reviewed. The clinical impression from the April 2023 Integrated BioPsychosocial assessment indicates that Petitioner reported history of trauma resulting from emotional abuse experienced as a child and domestic violence from a previous relationship as an adult. It was noted that he met the criteria for bipolar one disorder, current or most recent episode depressed, unspecified evidenced by manic episodes including symptoms such as high energy, reduce need for sleep, and loss of touch with reality. Depressive episodes include symptoms such as low-energy, low motivation, and loss of interest in daily activities with mood episodes lasting days to months. Petitioner met the criteria for PTSD, as evidenced by nightmares or unwanted memories of the trauma, avoidance of situations that bring back memories of trauma, heightened reactions, anxiety or depressed mood.. (Exhibit A, pp. 178–181, 207-219, 246-271).

A psychiatric evaluation was completed on [REDACTED] 2023, during which Petitioner identified history of attention deficit, mood swings, depression, and decreased sleep for more than 12 years. Petitioner denied having hallucinations or delusional thinking, and denied suicidal or homicidal ideations. With respect to past psychiatric history, the evaluation indicates that Petitioner had been treated in psychiatric hospitals more than 20 times with his first psychiatric hospitalization at age 19 after cutting himself. Petitioner reported that he had been given Prozac, trazodone, Adderall, Seroquel, Depakote, Risperdal, and Wellbutrin in the past. Petitioner reported history of cutting himself on multiple occasions and while he reported that he has never tried to hurt others, he has punch holes in walls. Mental status exam findings indicate that Petitioner's general appearance was alert, cooperative, and engaged. His speech was coherent and his gait was normal. He had good judgment/insight and average

intellectual functioning. His thought process was goal directed and his recent and remote memory was good. He was able to maintain focus and his concentration was adequate. His fund of knowledge was within normal limits and his mood was labile. His affect was congruent with his mood and thought and his thought content was within normal limits. He reported having no homicidal, suicidal, or assault ideations. He was diagnosed with bipolar one disorder, current most recent episode depressed, unspecified; PTSD; antisocial personality disorder; and attention deficit/hyperactivity disorder with predominantly inattentive presentation. (Exhibit A, pp. 220-227)

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Petitioner suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Petitioner has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

### **Step Three**

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case and the listing criteria applicable at the time of Petitioner's application date, listings 12.04 (depressive, bipolar and related disorders), 12.06 (anxiety and obsessive-compulsive disorders), 12.08 (personality and impulse-control disorders), and 12.15 (trauma and stressor related disorders) were considered. A thorough review of the medical evidence presented does **not** show that Petitioner's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Therefore, Petitioner is not disabled under Step 3 and the analysis continues to Step 4.

### **Residual Functional Capacity**

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Steps 4 and 5, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), including those that are not severe, and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4); 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2)

the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If individual's impairments and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b).

The exertional requirements, or physical demands, of work in the national economy are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a). Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools and occasionally walking and standing. 20 CFR 416.967(a). Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds; even though the weight lifted may be very little, a job is in the light category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b). Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. 20 CFR 416.967(e).

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi).

For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. Id.; 20 CFR 416.920a(c)(2). Where the evidence establishes a medically determinable mental impairment, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. The effect on the overall degree of

functionality is evaluated under four broad functional areas: (i) understand, remember, or apply information; (ii) interact with others; (iii) concentrate, persist, or maintain pace; and (iv) adapt or manage oneself. 20 CFR 416.920a(c)(3), to which a five-point scale is applied (none, mild, moderate, marked, and extreme). 20 CFR 416.920a(c)(4). The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c)(4).

In this case, Petitioner confirmed that he has no exertional or physical limitations and that he alleges only nonexertional mental limitations due to his impairments. Petitioner testified that he has been receiving mental health treatment since he was [REDACTED] years old and that while he was noncompliant with medications and did not attend mental health treatment for a few years, he returned to treatment in 2022. Petitioner testified that he was diagnosed with his mental impairments during childhood. He testified at age 16 he had a suicide attempt and was hospitalized for inpatient treatment. Petitioner testified that he attends therapy and receives case management and medication services. Petitioner identified diagnoses of bipolar I disorder, PTSD, ADHD, and antisocial personality disorder. Petitioner testified that he can only concentrate for seconds and often is triggered. He testified that he is unable to sit or be by himself as he freaks out and gets mad. He stated that he feels people are always out to see him fail and always out to get him. He reported that he is asked a question, he starts to see red and blows up if given instructions. He indicated that he frequently had physical and verbal altercations with his former boss and other employees. Petitioner reported that he has trouble with his memory and needs to write things down. He reported that he has bouts of depression that last three to four hours and occur one to two times weekly. Petitioner testified that he lives alone and that he is able to bathe himself and care for his own personal hygiene, including dressing. He performs chores inside and outside the home and is able to drive and shop for himself.

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources and nonmedical sources. SSR 16-3p.

The evidence presented is considered to determine the consistency of Petitioner's statements regarding the intensity, persistence and limiting effects of his symptoms. As referenced above, Petitioner has medically determinable impairments that could reasonably be expected to produce symptoms. While Petitioner's medical records document symptoms associated with bipolar I disorder, PTSD, ADHD, and antisocial personality disorder, the intensity, persistence, severity, and limiting effects of the symptoms as explained by Petitioner is not fully supported by the objective medical evidence presented for review and referenced in the above discussion. It is noted that Petitioner failed to submit additional or more recent medical evidence in response to the Interim Order and thus, the undersigned's review is limited to those records presented during the hearing and referenced above. Additionally, although the psychiatric



evaluation indicates that Petitioner has been treated in psychiatric hospitals more than 20 times, there were no records supporting this finding and no additional details of the psychiatric hospitalizations, as Petitioner reported only one inpatient psychiatric hospitalization at age 16 during the hearing. Based on a thorough review of Petitioner's medical records as well as Petitioner's testimony, Petitioner has moderate limitations in his ability to understand, remember, or apply information; to interact with others; in his ability to concentrate, persist, or maintain pace; and in his ability to adapt or manage oneself. Petitioner's nonexertional RFC is considered at both Steps 4 and 5.

#### **Step Four**

Step 4 in analyzing a disability claim requires an assessment of Petitioner's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed by Petitioner (as actually performed by Petitioner or as generally performed in the national economy) within the past 15 years that was SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1) and (2). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).


Petitioner's work history during the relevant years prior to the application consists of work as a laborer. Based on the RFC analysis above, Petitioner has no limitations to his exertional RFC. Because Petitioner has no exertional limitations, he is not precluded from performing past relevant work due to the exertional requirement of his prior employment. Additionally, as discussed above, Petitioner has a nonexertional and mental RFC imposing only moderate limitations on his ability to perform basic work activities. After thorough review of the evidence presented, it is found that Petitioner's nonexertional limitations would not preclude him from engaging in simple, unskilled work activities on a sustained basis. Because Petitioner is capable of performing past relevant work, it is found that Petitioner is not disabled at Step 4 and the assessment ends.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner **not disabled** for purposes of the SDA benefit program.

#### **DECISION AND ORDER**

Accordingly, the Department's determination is **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Electronic Mail:**

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**Interested Parties**

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**Via First Class Mail:**

**Petitioner**

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