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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: March 17, 2025
MOAHR Docket No.: 24-010637
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held on October 31, 2024, via teleconference. Petitioner appeared unrepresented. Barbara Shram, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence as MDHHS Exhibit A, pp. 1-879.

During the hearing, the parties agreed to extend the record for the admission of additional documents and to waive the timeliness standard for the issuance of this decision. On November 4, 2024, the undersigned ALJ issued an Interim Order Extending the Record, which indicated that all additional evidence was due to the Michigan Office of Administrative Hearings and Rules (MOAHR) by December 2, 2024. On November 12, 2024, Petitioner submitted documents to MOAHR, which were admitted as Petitioner Exhibit 1, pp. 1-15. The matter is now before the undersigned ALJ for a final determination based on the evidence presented.

ISSUE

Did MDHHS properly determine that Petitioner was not disabled for purposes of State Disability Assistance (SDA)?

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 September 6, 2023, Petitioner signed a Function Report Adult, which was submitted to MDHHS (Exhibit A, p. 95). Petitioner reported that she had difficulty focusing, suffered from anxiety attacks, difficulty remembering and processing information related to tasks and that she was easily overwhelmed. Petitioner

reported exhaustion and loss of interest in activities outside of the house. Petitioner reported living with her mother and that she had difficulty with personal care. Petitioner reported suicidal and racing thoughts and weight gain.

2. On [REDACTED] 2024, Petitioner applied for SDA as a disabled individual.
3. On April 15, 2024, Petitioner submitted Medical-Social Questionnaire to MDHHS (Exhibit A, p. 6). Petitioner alleged that she suffered from depression, anxiety, ADHD, and possible autism (Exhibit A, p. 7). Petitioner alleged that she had trouble focusing, little to no energy, obsessive thoughts, anxiety attacks and trouble understanding things (Exhibit A, p. 7).
4. On August 22, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program because she was capable of performing other work (Exhibit A, p. 874).
5. On August 26, 2024, MDHHS sent Petitioner a Notice of Case Action stating that Petitioner's SDA application was denied, effective April 1, 2024 ongoing, because she was not disabled (Exhibit A, p. 875).
6. On September 10, 2024, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding her disability status (Exhibit A, p. 4).
7. The medical records reflect the following, in relevant part:
 - a. On May 4, 2024, AuSable Valley Community Mental Health Authority conducted a medical review with Petitioner (Exhibit A, p. 272). Petitioner reported an "okay" mood. The practitioner noted that affect was restricted. The practitioner noted the following diagnoses: major depressive disorder, recurrent episode, moderate, unspecified anxiety disorder, borderline intellectual functioning and attention-deficit hyperactivity disorder (ADHD).
 - b. On April 17, 2024, Psychologist [REDACTED] evaluated Petitioner for Autism Spectrum Disorder (Exhibit 1, p. 1). The practitioner concluded that she met the diagnostic criteria for Autism Spectrum Disorder (Exhibit 1, p. 9). The practitioner noted that Petitioner demonstrated substantial functional impairment in social communication and social interaction by her lack of social/emotional reciprocity, nonverbal communicative behaviors, and developing, maintaining and understanding relationships. The practitioner concluded that Petitioner demonstrated substantial, restricted, repetitive and stereotyped patterns of behavior, interests and activities.
 - c. On February 20, 2024, Psychologist [REDACTED] Ph.D., examined Petitioner (Exhibit A, p. 72). Doctor [REDACTED] observed that Petitioner had below average ability to comprehend and concentrate, had limited intellectual ability, and disorganized thoughts. The doctor

noted that Petitioner had symptoms of depression with suicidal ideation, had problems sleeping and was anxious and depressed. The doctor noted the following diagnoses: generalized anxiety disorder, major depressive disorder and autism spectrum disorder. The doctor concluded that that she had a marked impairment in her ability to understand and remember instructions, had a marked to extreme impairment in her ability to concentrate and persist in carrying out instructions and sustain a full work week, and had a moderate impairment in her abilities to interact with co-workers and adjust to physical changes in a work environment.

- d. On October 20, 2023, AuSable Valley Community Mental Health Authority examined Petitioner (Exhibit A, p. 198). Petitioner reported feeling down and anxious but that the symptoms were manageable. The practitioner noted the diagnoses of major depressive disorder, recurrent episode, moderate, unspecified anxiety disorder, borderline intellectual functioning and attention-deficit hyperactivity disorder (ADHD) (Exhibit A, p. 200).
- e. On August 25, 2023, AuSable Valley Community Mental Health Authority conducted a medical review with Petitioner, who reported ongoing depressive symptoms (Exhibit A, p. 790).
- f. On August 23, 2023, Petitioner was evaluated by MidMichigan Neuropsychology Associates, PLC (Exhibit A, p. 28). Petitioner reported trouble sleeping, panic attacks and overthinking. Petitioner reported a depressed mood. The reviewing clinician noted panic attacks that included headaches and dizziness and concluded that her basic attention and concentration in the auditory modality fell in the severely impaired range. Her ability to sustain auditory attention fell in the impaired range and her ability to sustain visual attention fell in the moderately impaired range. The reviewing clinician concluded that Petitioner had moderate to severe cognitive deficits across a variety of areas. The diagnostic impressions were schizophreniform spectrum disorder, borderline intellectual functions, and attention and concentration deficit.
- g. On August 10, 2023, AuSable Valley Community Mental Health Authority examined Petitioner (Exhibit A, p. 103). Petitioner reported worsening depression, feeling that people would be better without her, fatigue, and anxiety. The practitioner noted the diagnoses of major depressive disorder, recurrent episode, moderate and unspecified anxiety disorder.
- h. On April 19, 2023, AuSable Valley Community Mental Health Authority conducted an assessment of Petitioner (Exhibit A, p. 257). The practitioner noted a depressed mood, flat affect, impaired concentration, weight gain of over 10 lbs. in the past three months, decreased energy, difficulty sleeping, and suicidal ideation with plan in place.

- i. On April 6, 2023, Petitioner was hospitalized at Havenwick in Auburn Hills for a week due to severe depression (Exhibit A, p. 107). Petitioner was admitted because she was tired, depressed, tearful and had thoughts of wanting to kill herself. Petitioner was diagnosed with major depression, single episode, severe (Exhibit A, p. 108).
8. On the date of the hearing, Petitioner was ■ years old; ■ in height and weighed approximately ■ lbs.
9. Petitioner has a high school diploma.
10. Petitioner has been employed as a classroom aide from September 2022 to May 2023 and as a clerk in a fast food restaurant from July 2021 to December 2021.
11. Petitioner alleged disabling impairments due to various medical conditions, including depression, anxiety, ADHD and Autism Spectrum Disorder.
12. 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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM). The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.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 that has lasted or is expected to last for a continuous period of 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 has not engaged in SGA during the period at issue. Therefore, Petitioner cannot be assessed as not disabled at Step One and the evaluation continues to Step Two.

Step Two

Under Step Two, 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 416.922(b).

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 Servs*, 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. RESCINDED BY SSR 16-3.

Here, Petitioner alleged disabling impairments due to various medical conditions, including depression, anxiety, ADHD and Autism Spectrum Disorder. DDS categorized Petitioner's mental disorders as severe (Exhibit A, p. 862). Petitioner testified that her mental impairments prevented her from obtaining gainful employment. The medical evidence shows a history of mental illness with severe symptoms that have caused Petitioner to be hospitalized.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step Two, 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 Two, and the analysis will proceed to Step Three.

Step Three

Step Three 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, the following listings for mental disorders were considered: 12.04 Depressive, bipolar and related disorders; 12.06 Anxiety and obsessive-compulsive disorders; 12.08 Personality and impulse-control disorders; 12.05 Intellectual disorder; 12.10 Autism spectrum disorder; and 12.13 Eating disorders (Exhibit A, p. 862).

To meet the listing for 12.04 Depressive, bipolar and related disorders, an individual must show medical documentation of a depressive disorder, characterized by five or

more of the following: (a) depressed mood; (b) diminished interest in almost all activities; (c) appetite disturbance; (d) sleep disturbance; (e) observable psychomotor agitation or retardation; (f) decreased energy; (g) feelings of guilt or worthlessness; (h) difficulty concentrating; or (i) thoughts of death or suicide. Additionally, an individual must show extreme limitation of one or a marked limitation of two of the following areas of mental functioning: (1) understand, remember, or apply information; (2) Interact with others; (3) Concentrate, persist, or maintain pace; or (4) Adapt or manage oneself.

The medical evidence presented shows a history of severe depression. DDS noted that Petitioner's depression was a medically determinable impairment (MDI) and categorized it as severe (Exhibit A, p. 862). DDS further determined that Petitioner's mental limitations in the four areas listed above was "moderate" (Exhibit A, p. 863). A moderate limitation is described as "functioning in this area independently, appropriately, effectively, and on a sustained basis is fair." A marked limitation is described as "functioning in this area independently, appropriately, effectively, and on a sustained basis is seriously limited." An extreme limitation is described as "not able to function in this area independently, appropriately, effectively, and on a sustained basis."

Based on the medical evidence, it is unclear why DDS determined that Petitioner's limitations were moderate as opposed to marked or severe. On February 20, 2024, Psychologist [REDACTED] Ph.D., completed a mental status examination of Petitioner (Exhibit A, p. 72). Based on a thorough review of Petitioner's mental status and functioning, Dr. [REDACTED] concluded that Petitioner had a "marked" impairment in her ability to understand and remember instructions, locations and work-like procedures and a "marked to extreme" limitation in her ability to concentrate and persist to carry out instructions and sustain a full work week (Exhibit A, p. 76). Dr. [REDACTED] findings are supported by a prior neuropsychological evaluation conducted by Dr. [REDACTED] at MidMichigan Neuropsychology Associates on August 23, 2023 (Exhibit A, p. 28). Dr. [REDACTED] found moderate to severe cognitive defects in a variety of areas and concluded that Petitioner exhibited moderate to severe problems with sustained attention concentration (Exhibit A, p. 32). Dr. [REDACTED] noted that Petitioner was moderately to severely depressed and had difficulty understanding the world around her and controlling her emotions under even minimal pressure (Exhibit A, p. 33).

The undersigned ALJ finds Dr. [REDACTED] report to be credible and compelling. Additionally, the medical evidence shows a history of (a) depressed mood; (d) sleep disturbance; (e) observable psychomotor agitation or retardation; (g) feelings of guilt or worthlessness; (h) difficulty concentrating; and (i) thoughts of death or suicide.

Petitioner's mental health practitioners have noted ongoing problems related to her severe depression and have prescribed psychotropic medication. Petitioner's depression has required her to be hospitalized, and she has engaged in consistent and ongoing out-patient care. Petitioner's depressed mood is documented throughout the medical evidence, including during the neuropsychological exam by the MidMichigan Neuropsychology Associates, in which Petitioner reported that her she's been

experiencing severe depression that makes her want to be “shut away from everybody” since she was four or five years old (Exhibit A, p. 29). During that examination, Dr. [REDACTED] observed moderate bilateral grip strength and moderate bilateral fine motor speed slowing, or psychomotor retardation (Exhibit A, p. 30). Dr. [REDACTED] also observed severe difficulty with concentration (Exhibit A, p. 32).

Petitioner’s symptoms related to depression were severe enough to require hospitalization at Havenwick Hospital in April 2023 (Exhibit A, p. 107). Petitioner was admitted because she was tired, depressed, tearful and had thoughts of wanting to kill herself (Exhibit A, p. 108). The practitioners at Havenwick observed depressed mood, anxiety with tense nervousness and sleep disturbances (Exhibit A, p. 108). Petitioner struggled with feelings of guilt or worthlessness, believing people would be better without her and reported fatigue or decreased energy (Exhibit A, p. 104). Further, there is a documented history of suicidal ideation with a plan in place and self-harm (Exhibit A, p. 257).

Upon thorough review, the medical evidence presented supports a finding that Petitioner’s impairments meet or are the equivalent to the required level in severity to the criteria in listing 12.04 of Appendix 1 of the Guidelines to be considered as disabling without further consideration.

DECISION AND ORDER

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 **disabled** for purposes of the SDA benefit program. Accordingly, MDHHS’ determination is **REVERSED**.

MDHHS IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER.

1. Reprocess Petitioner’s [REDACTED] 2024 SDA application to determine if all the non-medical criteria are satisfied in accordance with Department policy;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive from March 13, 2024 ongoing, if otherwise eligible and qualified;
3. Notify Petitioner of its decision in writing; and

4. Review Petitioner's continued SDA eligibility in October 2025.



LJ/nr

Linda Jordan
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 :

DHHS
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Interested Parties

BSC1
L. Karadsheh
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Via-First Class Mail :

Petitioner

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