



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

██████████
██████████
██████████, MI ██████████

Date Mailed: February 25, 2025
MOAHR Docket No.: 24-012474
Agency No.: ██████████
Petitioner: ██████ ██████

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 December 12, 2024, via teleconference. Petitioner appeared represented himself. Jodi O'Neal, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-1606.

At the hearing, Petitioner requested an opportunity to submit additional evidence. The parties agreed to extend the record for 30 days and to waive any violation of statutory or policy time standards. On December 12, 2024, the undersigned ALJ issued Interim Order Extending the Record. Additional evidence was due by January 13, 2024. No additional evidence was received. Accordingly, the matter is now before the undersigned ALJ based on the evidence that was admitted at the hearing.

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 ██████████ 2024, Petitioner applied for SDA cash assistance alleging a disability.
2. On September 9, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program because his impairment did not prevent employment for 90 days or more and he

was capable of performing other work (non-exertional impairment) (Exhibit A, 15-16). DDS noted in its rationale that he was able to complete, simple, routine tasks on a sustained basis in a low-stress setting (Exhibit A, p. 18). The allegations of impairments included bipolar disorder, schizophrenia, personality disorder, fibromyalgia, kidney stones, hormone disorder, head injury, neck injury, back injury and opioid dependence (Exhibit A, p. 30).

3. On September 10, 2024, MDHHS sent Petitioner a Notice of Case Action stating that Petitioner's SDA application was denied, effective September 1, 2024 ongoing, because he was not disabled (Exhibit A, p. 5).
4. On October 31, 2024, Petitioner filed a Request for Hearing to dispute MDHHS' disability determination (Exhibit A, p. 6).
5. The relevant medical records reflect the following:
 - a. On or about July 16, 2024, Petitioner completed a Function Report – Adult stating that his anxiety and manic depression prevented him from working because he had racing thoughts and could not complete tasks (Exhibit A, p. 35). Petitioner alleged that his conditions affected his ability to talk, remember, complete tasks and concentrate (Exhibit A, p. 40). Petitioner also reported that he had social phobia (Exhibit A, p. 41).
 - b. On May 24, 2024, North Country Community Mental Health conducted an assessment of Petitioner's mental status (Exhibit A, p. 296). The examiner found that his short-term, long-term and immediate recall memory was impaired, and he had an impaired ability to engage in socially acceptable interactions (Exhibit A, p. 306). The examiner noted concerns related to judgment and anger management. The examiner noted that Petitioner's schizoaffective disorder, bipolar type and unspecified personality disorder were active. The examiner noted that Petitioner's opioid-related disorder was in remission. The examiner noted depressive bouts associated with insomnia, persecutory delusions and auditory hallucinations (Exhibit A, p. 308). The examiner noted that when symptomatic, Petitioner experienced command auditory hallucinations that could lead to paranoia and fear.
 - c. On or about March 15, 2024, Petitioner completed a Function Report – Adult stating that his anxiety and paranoia made it hard to concentrate (Exhibit A, p. 100). Petitioner alleged that his conditions affected his ability to talk, remember, concentrate, understand and follow instructions (Exhibit A, p. 105).
 - d. On January 24, 2024, Petitioner was examined by [REDACTED] [REDACTED] MD, at Northern BH (Behavioral Health) (Exhibit A, p. 1429). The reviewing physician confirmed that Petitioner was experiencing delusions of persecution and auditory hallucinations.

- e. On November 26, 2023, Petitioner was admitted to Northern BH for hallucinations (Exhibit A, p. 1433). Petitioner exhibited paranoid behavior and believed that people were trying to poison him. Petitioner's diagnosis of paranoid schizophrenia was confirmed and delusions of persecution were noted.
- f. On November 24, 2023, Petitioner was admitted to the Kalkaska Memorial Health Center because he was hearing voices (Exhibit A, p. 363). He was arrested after overturning furniture when he was upset. The reviewing physician noted a history of schizophrenia, bipolar disorder, and depression, among others.
- g. On November 18, 2023, Petitioner was admitted to the Kalkaska Memorial Health Center due to severe headaches (Exhibit A, p. 376).
- h. On October 24, 2023, Petitioner attended an office visit at East Jordan Family Health Center, his primary care provider, and reported hearing voices and headaches (Exhibit A, p. 458).
- i. On September 26, 2023, Petitioner was involuntarily admitted to Forest View Psychiatric Hospital for psychosis (Exhibit A, p. 231). He was discharged on October 4, 2023. The discharge diagnosis was bipolar disorder, current episode manic severe with psychotic features. Petitioner exhibited disorganized thoughts and auditory hallucinations.
- j. On March 22, 2023, Petitioner attended an office visit at East Jordan Family Health Center and reported nervousness and anxiety (Exhibit A, p. 1129).
- k. On April 17, 2017, Petitioner was examined by Vivian Matt, MD at Community First Health Centers (Exhibit A, p. 844). The reviewing physician noted Petitioner's attention deficit is long-standing, that Petitioner complains of impulsivity, being easily distracted and having poor concentration.
- l. On February 6, 2015, Petitioner was admitted to War Memorial Behavioral Health Center for delusional thoughts (Exhibit A, p. 343). Petitioner was discharged February 12, 2015.
- m. From November 1 to November 6, 2014, treating physician [REDACTED] met with Petitioner (Exhibit A, pp. 185-193). Petitioner's diagnoses/working diagnoses were personality disorder, schizoaffective/schizophrenic disorder, psychotic disorder, and bipolar one disorder. Petitioner was discharged on November 7, 2014 (Exhibit A, p.

203). Petitioner was readmitted on November 14, 2014 after becoming aggressive and exhibiting memory loss and denial (Exhibit A, p. 209).

- n. On October 30, 2014, Petitioner was involuntarily admitted to Alpena Regional Medical Center due to suicidal tendencies, delusional thoughts and hallucinations (Exhibit A, pp. 165-172). Petitioner was diagnosed with bipolar disorder, other mood disorder, opioid and alcohol dependence with physiological dependence and marijuana dependence (Exhibit A, pp. 174, 178).
6. On the date of the hearing, Petitioner was [REDACTED] years old and weighed approximately [REDACTED] lbs.
7. Petitioner has a high school diploma.
8. At the time of application, Petitioner was not employed.
9. Petitioner's work history includes employment at [REDACTED] [REDACTED] (Employer) as a seasonal chairlift operator and groundskeeper (Exhibit A, p. 91). Petitioner had employment at Employer from approximately December 2017 to August 2023 (Exhibit A, p. 91). Petitioner's employment at Employer ended in August of 2023 because he was admitted to a psychiatric hospital (Exhibit A, p. 94).
10. 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 1 and the evaluation 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 416.922(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 disability conditions due to bipolar disorder, schizophrenia, personality disorder, and anxiety. DDS categorized Petitioner's mental disorders as severe (Exhibit A, p. 23). Petitioner's mental disorders are well-documented through medical records dating back to 2014.

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 a severe impairment that has lasted or is 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 of whether 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, listing 12.03 (Schizophrenia spectrum and other psychotic disorders); 12.04 (Depressive, bipolar and related disorders); and 12.08 (Personality and impulse-control disorders) were considered.

To meet the listing in 12.03, the claimant must present medical documentation of one of the following: (i) delusions or hallucinations; (ii) disorganized thinking (speech); or (iii) grossly disorganized behavior or catatonia. In addition to the aforementioned criteria, the claimant must show an extreme limitation of one or marked limitation of two of the following areas of mental functioning: (i) understand, remember, or apply information; (ii) interact with others; (iii) concentrate, persist or maintain pace; (iv) adapt or manage oneself. Alternatively, a claimant may meet the listing by showing that the mental disorder is "serious and persistent," that is, there is a medically documented history of the existence of the disorder over a period of at least two years, and there is evidence of both: (i) medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of the mental disorder; and (ii) marginal adjustment, that is, the person has minimal capacity to adapt to new environmental changes or demands.

In this case, the medical evidence shows that Petitioner suffers from auditory and persecutory command hallucinations. Petitioner testified that he hears voices on a daily basis. The voices that he hears have been well-documented by medical professionals and persistent for over a decade. Medication diminishes the hallucinations. Although there is evidence that Petitioner has significant limitations in the four areas of mental functioning, it is not clear from the medical evidence whether these limitations qualify as "extreme" or "marked." DDS determined that Petitioner had moderate limitations in these areas (Exhibit A, p. 23).

Petitioner's schizophrenia qualifies as "serious and persistent" because it has been documented by various mental health professionals for over a decade. Medical records dating back to Petitioner's involuntary commitment to the psychiatric unit at Alpena Regional Medical Center in 2014 confirm the diagnosis. From that initial commitment, Petitioner has been hospitalized several times in psychiatric or behavioral health units and has received ongoing out-patient treatment and support. Petitioner has been the recipient of various services, including medication management meetings related to his schizophrenia and other mental health disorders. Due to these supports, Petitioner's symptoms have diminished, and the records show periods of stability in which Petitioner reported feeling well. Petitioner reported on some occasions that the voices did not bother him because they were delivering positive affirmations. However, even with the medication and interventions, the voices did not stop.

The record shows that despite Petitioner's diminished symptoms following extensive mental health interventions, Petitioner has achieved only "marginal adjustment." "Marginal adjustment" means that an individual's adaptation to the requirements of daily life is fragile; that is, the individual has minimal capacity to adapt to changes in environment or to demands that are not already part of daily life. Marginal adjustment can be demonstrated by changes or increased demands that led to a deterioration in functioning. Such deterioration may have necessitated a significant change in medication or other treatment. Similarly, because of the nature of the mental disorder, evidence may document episodes of deterioration that have required the individual to be hospitalized or absent from work, making it difficult to sustain work activity over time.

Petitioner testified that he worked as a seasonal employee at Trinidad Resorts as a chairlift operator and on the golf course maintenance crew on a part-time basis from December 2017 until August 2023. Petitioner noted several special conditions that helped him maintain this employment, including extra help/supervision, working less hours than other employees, having fewer duties than other workers, and allowing him to produce less than other workers (Exhibit A, p. 93). Despite these supports, Petitioner frequently missed work due to his mental health conditions and eventually lost the position because he was admitted into a psychiatric hospital for psychosis. Petitioner's medical history shows frequent admissions to psychiatric wards and hospital visits on both a voluntary and involuntary basis.

Petitioner reported that he was unable to maintain a job after that time because hearing voices made it hard to concentrate and learn a new skill or task. Additionally, when his mental condition was poor, he would self-isolate, which would prevent him from leaving the house. Petitioner testified that even with the medication, he had panic attacks in the morning, which makes it hard to leave his house. Petitioner testified that in October 2023, he tried to get a job at a pizza place as a dishwasher and prep cook, but that he only lasted two days. Petitioner testified that the new environment made him anxious and he quit because he was having obsessive thoughts, panic attacks and could not follow the instructions for making the pizzas.

Accordingly, Petitioner's mental condition of schizophrenia qualifies as serious and persistent, and there is substantial evidence of ongoing and extensive medical treatments and mental health therapy in highly structured settings that has diminished Petitioner's symptoms. Additionally, Petitioner has achieved only marginal adjustment despite the mental health interventions, as evidenced by his repeat hospitalizations, which have made it difficult for Petitioner to sustain work on a consistent basis.

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 12.03 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 if otherwise eligible and qualified; and
3. Notify Petitioner of its decision in writing.



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

Jodi O'Neal
Antrim County DHHS
205 E. Cayuga St
PO Box 316
Bellaire, MI 49615
MDHHS-Antrim-Hearings@michigan.gov

Interested Parties

BSC1
L. Karadsheh
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]