SOCIAL SECURITY ADMINISTRATION
Office of Hearings Operations

DECISION

IN THE CASE OF

Nicolas Ibarra Jr
(Claimant)

(Wage Earner)

CLAIM FOR

Supplemental Security Income

[redacted]

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated June 20, 2018 (20 CFR 416.1429 *et seq.*). The claimant appeared and testified at a hearing held on November 18, 2019, in San Francisco, CA. Also appearing and testifying was Richard W Cohen, an impartial medical expert. [redacted] the claimant's sister and [redacted] the claimant's case manager were present as observers. Lorian I. Hyatt, an impartial vocational expert was also present but did not testify. The claimant is represented by [redacted]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant has not engaged in substantial gainful activity since September 19, 2017, the date the application for supplemental security income was filed (20 CFR 416.920(b) and 416.971 *et seq.*).

2. The claimant has the following severe impairment: schizophrenia, paranoid type (20 CFR 416.920(c)).

3. The severity of the claimant's impairment meets the criteria of section 12.03 of 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 416.920(d) and 416.925).

In making this finding, the undersigned has considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 416.929 and SSR 16-3p. The undersigned also considered the medical opinion(s) and prior administrative medical finding(s) in accordance with the requirements of 20 CFR 416.920c.

The claimant alleges that schizophrenia, attention deficit hyperactivity disorder (ADHD), high blood pressure and low thyroid condition prevent him from working (Ex. 2E:2). On reconsideration, he alleged that he still having problems sleeping with going up to a month without sleep, having no appetite, but still gaining weight, neglecting personal hygiene, he still

See Next Page

had auditory and visual hallucinations (AVH) despite medication, and he is very forgetful and needs reminders to do simple things (Ex. 7E:2). He reported that disorganized thoughts and behavior, difficulty focusing on tasks at hand, and following through with a process make it impossible to maintain and properly do a job; and symptoms of auditory hallucinations compromise socialization as well as communication. He also reported difficulty with memory completing tasks, concentrating and understanding (Ex. 3E).

Based on the documentary evidence of record and testimony of the impartial medical expert, the undersigned concludes that the claimant's severe impairment meets Listing 12.03, *Schizophrenia spectrum and other psychotic disorders,* in Appendix 1, Subpart P of the regulations (20 CFR Part 404). These disorders are characterized by delusions, hallucinations, disorganized speech, or grossly disorganized or catatonic behavior, causing a clinically significant decline in functioning.

The "paragraph A" criteria are satisfied because the claimant has hallucinations, delusions, disorganized thinking, and grossly disorganized behavior. The "paragraph B" criteria are satisfied because the claimant's impairment causes a moderate limitation in understanding, remembering, or applying information; a marked limitation in interacting with others; a marked limitation in concentrating, persisting, or maintaining pace; and a moderate limitation in adapting or managing oneself.

The record reveals that the claimant sought mental health treatment and follow-up at Caminar Mental Health (CMH). The claimant's treatment notes indicate that his schizophrenia causes AVH, disorganized thought and difficulty with follow through, depression, mood swings, anxiety, social isolation, paranoia, and difficulty falling asleep due to restlessness. Mental status examination noted malodorous, mild psychomotor restlessness, tangential and disorganized speech; flat, restricted and blunt affect, intermittent smiling; tangential, loose associations and thought blocking thought process, hallucinations, responding to some internal stimuli, lack of motivation, poor concentration, poor to fair memory, poor to fair insight, poor judgment and impulse control, and suicidal ideation without a plan or intent (Exs. 6F; 7F; 10F; 13F).

In August 2019, Paul Martin, Ph.D. conducted a psychological consultative examination. The claimant endorsed symptoms of psychosis including AVH, paranoid ideations, delusions, disorganized thinking, and ideas of reference. He described past manic episodes as periods of expanded mood, expanded sense of self, loss of need for sleep, racing thoughts, increased level of activity, pressured speech, tangential thinking, impulsive behavior, mood swings and grandiose thinking. The claimant described past depressive episodes as periods of low energy, poor motivation, social withdrawal, sleep disturbance, anhedonia, problems with memory and concentration, irritability, poor frustration tolerance, feelings of hopelessness, and suicidal ideation. He reported having made multiple suicide attempts by overdose in the past, but denied having any current thoughts of suicide or self-harm. He reported a history of alcohol, marijuana and methamphetamine use. During his MSE, the claimant's mood was described as "I'm good" and affect was restricted in range and mildly labile. Thought process and content were derailed; attention was fair and fund of knowledge and memory were adequate. Dr. Martin diagnosed schizoaffective disorder, bipolar type and methamphetamine, alcohol and cannabis use disorder (Ex. 11F:3).

See Next Page

On September 17, 2019, the claimant was psychiatrically hospitalized on a 5150 for danger to self and gravely disabled. He was very manic with pressure speech, he was difficult to redirect and he was very delusional about thugs and terrorists. He reportedly received a restraining order two weeks prior for threatening his roommate. He was very hypersexual, was reportedly inappropriately dressed, and had a very odd behavior and exhibited stereotypical movements. He was started on his medications, he was compliant with his medications, attended all groups and his grooming and hygiene had improved. He was discharged on September 25, 2019 with diagnosis of schizoaffective disorder bipolar type. He was discharged with Abilify (Ex. 13F:9).

At the hearing, Richard W. Cohen, MD testified that the claimant suffers from schizophrenic disorder, paranoid with bipolar type that meets Listing 12.03. He testified that his psychotic symptoms include has auditory and visual hallucinations, delusions, paranoid substrate, disorganized and tangential thinking and ideas of reference. His depressive symptoms include trouble with sleep, energy, concentration and anhedonia. When he is manic, he has pressured speech, increased in activities, decreased need sleep, impulsive behaviors with irritability and grandiosity, and mood swings. This comes with very low frustration tolerance and multiple suicide attempts by overdosing in the past. Dr. Cohen testified that the claimant's fund of knowledge is adequate; however, with the schizophrenia there is a great deal of disorganized thinking and a great deal with focus. He opined that the claimant is moderately impaired in understanding, remembering, or applying information. He is markedly impaired in interacting with others as he has a psychotic transference with other people, he is paranoid, he has a great deal of anger issues and problems controlling his emotions because of his psychosis and being out of contact with reality. He is markedly limited in concentration, persistence or maintaining pace as he is easily distracted with his tangential thinking and auditory and visual hallucinations. He is moderately to markedly impaired in adapting or managing himself as he is able to make some meals and shop; however, he has trouble modulating his affect and controlling his emotions and has poor impulse control. Dr. Cohen testified that there is some alcohol usage; however, but it is not material.

The undersigned finds the opinion of Dr. Cohen most persuasive because he is board certified in the American Board of Psychiatry and Neurology, and has practiced for a significant number of years (See Ex. 12F). Furthermore, as an expert witness before the Social Security Administration, he has knowledge of our disability program and had access to all of the medical evidence of record when he offered his opinion. Furthermore, this opinion is most persuasive because was supported by an explanation with bases in the record and is consistent with the longitudinal record.

Jon Michael Duey, PNP, claimant's psychiatric nurse practitioner at CMH since October 2016 reported that the claimant has a history of mental illness that impairs his thought process and concentration, thus influencing his ability to work (Ex. 10F:1). The undersigned finds this letter persuasive because it is supported and consistent with treatment records that document disorganized thought, difficulty with follow through and poor concentration. Further, it is consistent with the testimony of Dr. Cohen.

Consulting psychologist Dr. Paul opined that the claimant is markedly impaired with performed detailed and complex tasks, maintaining regular attendance in the workplace, performing work

See Next Page

activities on a consistent basis; performing work activities without special or additional supervision; completing a normal workday or workweek without interruptions resulting from the claimant's psychiatric condition, interacting with coworkers and with the public and dealing with the usual stresses encountered in competitive work environment; moderately impaired in accepting instructions from supervisors and mildly impaired in performing simple and repetitive tasks (Ex. 11F). The undersigned finds the opinion of Dr. Paul persuasive because it is based on examination of claimant, area of specialization and is supported by the medical record.

State agency mental psychologist Eugene Campbell, Ph.D., assessed moderate difficulties understanding, remembering, or applying information; moderate difficulties interacting with others; moderate difficulties concentrating, persisting, or maintaining pace; and mild difficulties adapting and managing oneself. Dr. Campbell opined that the claimant (Ex. 1A). State agency mental psychologist Paul Kresser, Ph.D., assessed moderate difficulties understanding, remembering, or applying information; moderate difficulties interacting with others; moderate difficulties concentrating, persisting, or maintaining pace; and moderate difficulties adapting and managing oneself. Dr. Kresser opined that the claimant is capable of simple repetitive tasks, maintaining concentration, persistence and pace while performing simple repetitive tasks with limited public contact (Ex. 3A). The State agency medical opinions are less persuasive because other medical opinions are more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants. Further, the agency consultants did not adequately consider the claimant's subjective complaints or the combined effect of the claimant's impairments.

4. The claimant has been under a disability as defined in the Social Security Act since September 19, 2017, the date the application was filed (20 CFR 416.920(d)).

5. The claimant's substance use disorder(s) is not a contributing factor material to the determination of disability (20 CFR 416.935).

Applying the sequential evaluation process a second time, the claimant's other impairment would not improve to the point of nondisability in the absence of the substance use disorder(s). There is mention of substance use in the record (Ex. 10F:17; 11F; 13F:41); however, Dr. Cohen testified that while there is some alcohol use in the record, it is not material. Accordingly, the claimant would still be disabled in the absence of the substance use disorder(s).

DECISION

The claimant has been disabled under section 1614(a)(3)(A) of the Social Security Act since September 19, 2017, the date the application for supplemental security income was filed. Supplemental security income does not become payable until the month after the month in which the application is filed (20 CFR 416.335).

See Next Page

The component of the Social Security Administration responsible for authorizing supplemental security income will advise the claimant regarding the nondisability requirements for these payments and, if the claimant is eligible, the amount and the months for which payment will be made.

Medical improvement is expected with appropriate treatment. Consequently, a continuing disability review is recommended in 18 months.

It is recommended that a determination be made concerning the appointment of an institutional representative payee who can manage payments in the claimant's interest.

/s/ *Mary P. Parnow*
Mary P. Parnow
Administrative Law Judge

January 10, 2020
Date