

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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SHEILA JEAN HANNUM,

Plaintiff,

OPINION AND ORDER

v.

20-cv-294-wmc

KILOLO KIJAKAZI, Acting Commissioner  
for Social Security,

Defendant.

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Pursuant to 42 U.S.C. § 405(g), plaintiff Sheila Jean Hannum seeks judicial review of the Social Security Commissioner’s final determination upholding an opinion that she was not disabled. On appeal to this court, plaintiff maintains that Administrative Law Judge (“ALJ”) Bill Laskaris erred in two respects: (1) assessing the opinions of the state agency psychologists; and (2) weighing the opinion testimony of plaintiff’s treating psychiatrist Dr. Caroline Poirier. For the reasons that follow, the court will affirm the ALJ’s decision.

## BACKGROUND<sup>1</sup>

### A. Overview

Plaintiff Sheila Jean Hannum has at least a high school education, is able to communicate in English, and has past work experience as a receptionist. Hannum has not engaged in substantial gainful activity since May 23, 2016, the same date as her alleged onset disability date, although as the ALJ noted, Hannum has engaged in part-time

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<sup>1</sup> The following facts are drawn from the administrative record, which can be found at dkt. #16.

working, including working approximately 10 hours a week at a food restaurant from November 2018 through at least the date of her hearing in front of the ALJ.

Hannum applied for social security disability benefits on July 22, 2016, with a date last insured of September 30, 2021. As noted above, in her application she alleged a disability onset date of May 23, 2016. With a birth date of June 30, 1972, Hannum was 43 years-old on the alleged disability onset date, defining her as a “younger individual.” 20 C.F.R. §§ 404.1563. Hannum claimed disability based on bi-polar disorder, ADHD, eating disorder, anxiety, depression, hypertension, hypothyroidism, sleep apnea and obesity. (AR 192-93.)

#### **B. ALJ Decision**

ALJ Laskaris held a video hearing on February 11, 2019, at which Hannum appeared personally and by counsel -- the same counsel representing her in this appeal. On March 19, the ALJ issued an opinion finding that Hannum had not been under a disability within the meaning of the Social Security Act from her alleged disability onset date through the date of the decision. The ALJ first determined that Hannum had the following severe impairments: “bipolar disorder; general anxiety disorder; binge eating disorder; attention deficit hyperactivity disorder (‘ADHD’).” (AR 139.)<sup>2</sup>

Next, the ALJ considered whether Hannum’s impairments or combination of impairments met or medically equaled various mental impairments Listings, concluding

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<sup>2</sup> The ALJ explained that Hannum “did not testify that any physical impairments cause any limitations on her ability to perform work-related activities” and that he placed “great weight” on the opinions of the state agency medical consultants who concluded that she “did not have any severe physical impairments.” (AR 139.) Plaintiff does not challenge this finding on appeal.

that they did not. (AR 139-41.) Hannum does not challenge the ALJ's conclusion that she did not meet any of the physical listings, but the ALJ's discussion of the "paragraph B" criteria is material to one of Hannum's challenges on appeal. The ALJ concluded that Hannum has moderate limitations with respect to each of the four categories: understanding, remembering or applying information; interacting with others; concentrating, persisting and maintaining pace ("CPP"); and adapting or managing oneself. With respect to CPP, the ALJ explained:

The medical records indicate that the claimant has reported having variable concentration with a decreased ability when she has anxiety but the ability to concentrate has been noted. (5F/6; 7F/5; 13F/9, 14). She was also noted to display adequate attention (5F/6). She indicated in her function report that her depression and anxiety make it challenging for her to stay on task and concentrate, but that she is able to handle money matters (4E/4). She also stated that she does not finish what she starts, has trouble following instructions, and does not handle stress or changes in routine well (4E/6-7). At the hearing, she testified that she has requested to work 15 to 20 hours a week, but has only been scheduled for 10 hours a week because business is slower due to the weather conditions. However, she described feeling tired after working and also indicated that the fast pace produces too much anxiety. She stated that she has asked for extra help and receives encouragement from coworkers, but having to multitask increases her anxiety.

(AR 140.)

At step four, the ALJ determined that even with these limitations, Hannum had the residual functional capacity ("RFC") to perform a full range of work "at all exertional levels," consistent with his finding that she had no severe physical impairments, but concluded that she required the following non exertional limitations

work involving simple, routine, repetitive tasks; employed in a low stress job defined as involving only occasional decision making; only occasional changes in the work setting; no strict production rate requirements; only brief and superficial interaction with the public; and only occasional interactions with coworkers and supervisors.

(AR 141.)

In making this determination, the ALJ considered: (1) Hannum's inpatient psychiatric treatment in May 2016; (2) her acknowledgment, including at the hearing, that her mental health had improved since she understood the seriousness of her bipolar disorder, had moved to a smaller community and was consistently attending her appointments and taking her medication; (3) Hannum's testimony that her medication caused side effects, including tiredness and exhaustion, requiring her to take a daily one to two hour nap on top of sleeping eight to ten hours at night. (AR 142.) More specifically, the ALJ reviewed medical records indicating that during her inpatient hospital stay, Hannum was described as "manic and psychotic and was sleeping poorly, was irritable and angry, and was having auditory hallucinations and delusions of persecution." (*Id.*) Nonetheless, by June 2016, Hannum was described as "doing well on her current regimen," and a year later in June 2017, she was reported as having "been stable on her current psychiatric medication regimen for close to a year," despite not working due to her anxiety level and noting weight gain and hair loss as side effects to her medication. (*Id.*) The ALJ also acknowledged diagnoses of binge eating and ADHD. (*Id.*) Nonetheless "mental status examinations mostly show findings within normal level." (AR 143.)

The ALJ also noted plaintiff's testimony about improvement since she had consistently attended appointments, been compliant with medication and joined support

groups. The ALJ further noted Hannum's current part-time work and her testimony that she had requested additional hours. Finally, while acknowledging that her daily activities "do[] not solely support finding that she is able to perform work within the residual functional capacity," the ALJ noted that Hannum works three days a week, often walking 20 minutes both way, does the weekly shopping, washes dishes, washes her and her son's laundry, uses a computer for going on the internet, reads the Bible, goes on bike rides and was described as "well-groomed and neatly and appropriately dressed in the records." (AR 143.)

Next, the ALJ considered the opinion testimony. First, with respect to the state agency psychological consultants, the ALJ placed some weight on the initial opinion by Dr. Soumya Palreddy, dated November 29, 2016, in which she concluded that Hannum had mild impairments in activities of daily living and in maintaining social functioning and moderate limitations in maintaining CPP and no repeated episodes of decompensation. (AR 144 (citing AR 199-201).) The ALJ explained that he placed only some weight on this opinion because "the evidence, as discussed more fully above, shows that claimant's mental impairments cause moderate limitations in her ability to perform work-related activities, which have been provided for in her [RFC]." (AR 144.)

With respect to the state agency psychologist on reconsideration, the ALJ placed "great weight" on his opinion. (AR 144 (citing AR 213-15).) John J. Warren, Ed.D., completed a form dated March 6, 2017, in which he concluded that plaintiff has moderate limitations in all four categories -- the same Paragraph B categories described above. With respect to CPP, Warren concluded that Hannum was moderately limited in the following

categories: “ability to carry our detailed instructions”; “ability to maintain attention and concentration for extended periods”; and “ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.” (AR 214.)

For his narrative, Warren explained:

Claimant able to sustain the mental demands associated with carrying out simple tasks over the course of routine workday/workweek within acceptable attention, persistence, pace tolerances. Unable to do so for moderately to highly complex/detailed tasks required sustained concentration.

*(Id.)*

The ALJ also considered the opinion of Hannum’s treating psychologist, Carline Poirier, M.D., and two forms that she completed, one dated February 20, 2017, and the other dated May 25, 2017, placing little weight on her opinions. (AR 144-45.) In the first form, Dr. Poirier concluded that Hannum had “good ability to understand, carry out and remember instructions if they are simple and written down and a good ability to respond appropriately to supervisors and coworkers if they are calm, supportive, patient, and not judgmental.” (AR 144.) Poirier recognized, however, that Hannum’s “symptoms would flare up with the stress of responding appropriately to routine work pressures and changes in a work setting.” *(Id.)* In the second form, however, Dr. Poirier indicated that Hannum had “serious limitations, an inability to meet workplace competitive standards, and no capacity to function in various aspects of mental abilities and capacities required for” even unskilled work, and that “she would likely miss more than 5 days per month due to impairments or treatment.” *(Id.)* The ALJ discounted Dr. Poirier’s opinions because they

“call for more severe restrictions than are supported by the overall evidence of record,” specifically noting (1) that since her May 2016 hospitalization, Hannum been noted as “stable on her treatment regimen”; (2) mental health examinations have shown “findings mostly within normal limits”; (3) her testimony that she has seen improvement with consistent attendance at appointment and medical compliance; and (4) her ability to work part time and having requested additional hours. (AR 145.)

After reviewing some other evidence, the ALJ then considered with the assistance of the vocational expert, whether Hannum could perform her past work, concluding that she could not because it was semi-skilled. The ALJ, however, ultimately concluded that there were jobs in significant numbers in the national economy that Hannum could perform, citing linen attendant and kitchen helper as examples. As such, the ALJ concluded that plaintiff was not under a disability from May 23, 2016, through the date of the decision.

## OPINION

The standard by which a federal court reviews a final decision by the Commissioner of Social Security is well-settled. Specifically, findings of fact are “conclusive,” so long as they are supported by “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” 42 U.S.C. § 405(g); *Richardson v. Perales*, 402 U.S. 389, 401 (1971). Provided the Commissioner’s findings under § 405(g) are supported by such “substantial evidence,” therefore, this court cannot reconsider facts, re-weigh the evidence, decide questions of credibility, or otherwise substitute its own judgment for that of the ALJ. *Clifford v. Apfel*, 227 F.3d 863, 869 (7th Cir. 2000). Similarly, where conflicting

evidence allows reasonable minds to reach different conclusions about a claimant's disability, the responsibility for the decision falls on the Commissioner. *Edwards v. Sullivan*, 985 F.2d 334, 336 (7th Cir. 1993).

At the same time, the court must conduct a "critical review of the evidence," *id.*, and insure the ALJ has provided "a logical bridge" between findings of fact and conclusions of law. *Stephens v. Berryhill*, 888 F.3d 323, 327 (7th Cir. 2018). Thus, the court must review plaintiff's two challenges on appeal under this deferential, yet discerning, standard.

### **I. Assessment of Opinions of State Agency Psychologists**

Plaintiff argues that the ALJ erred in relying on state agency psychologist opinions that violated that Policy Operations Manual System ("POMS"). Specifically, plaintiff contends that the state agency psychologist's narrative failed to account for all of his individual findings with respect to plaintiff's CPP limitations. As described above, on reconsideration John J. Warren, Ed.D., reviewed Hannum's record and determined that she had moderate limitation in all four areas of mental limitations, and with respect to CPP, further found moderate limitations in: "ability to carry our detailed instructions"; "ability to maintain attention and concentration for extended periods"; and "ability to complete a normal workday and workweek without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods." (AR 214.)

As it has in other recent cases, the court rejects at the outset plaintiff's apparent assertion that POMS requires a state agency psychologist to prepare a narrative as to each of the CPP subcategories, much less that if they fails to do so, the narrative is incomplete.



*See Baumann v. Saul*, No. 20-cv-11-wmc, 2020 WL 7237921, at \*4 (W.D. Wis. Dec. 9, 2020); *Malloy v. Saul*, No. 20-cv-584-wmc, slip op., at \*9 (W.D. Wis. May 20, 2021). Still, as plaintiff points out, the Seventh Circuit has emphasized that an ALJ “may rely on a doctor’s bottom line assessment *where it adequately translates his findings*, including from the checklist portion of the agency form.” *Somers v. Saul*, No. 19-cv-51-wmc, 2020 WL 582370, at \*4 n.2 (W.D. Wis. Feb. 6, 2020) (emphasis in original) (citing *Milliken v. Astrue*, 397 F. App’x 218, 221 (7th Cir. 2010); *Burmester v. Berryhill*, 920 F.3d 507, 511 (7th Cir. 2019); *Dudley v. Berryhill*, 773 F. App’x 838, 843 (7th Cir. 2019)).

For his narrative, Warren explained:

Claimant able to sustain the mental demands associated with carrying out simple tasks over the course of routine workday/workweek within acceptable attention, persistence, pace tolerances. Unable to do so for moderately to highly complex/detailed tasks required sustained concentration.

(AR 214.) There is nothing inconsistent between Warren’s explanation and the specific CPP findings that he made. Instead, Warren concluded that Hannum’s CPP limitations could be addressed by limiting her to simple tasks. Still, plaintiff faults Warren for failing to explain what constitutes “within acceptable attention, persistence, pace tolerances.” (Pl.’s Opening Br. (dkt. #25) 14.) The regulations, however, explain that state agency consultants are “highly qualified and experts in Social Security disability evaluation.” 20 C.F.R. § 404.1513a. As such, it is reasonable to conclude that Warren’s mention of “acceptable attention, persistence, pace tolerances” was informed by his understanding of sustained work requirements.

Moreover, unlike the court's recent case in *Malloy*, here the ALJ relied on Warren's CPP narrative in crafting his RFC. *See Burmester v. Berryhill*, 920 F.3d 507, 511 (7th Cir. 2019) (explaining that "an ALJ may reasonably rely upon the opinion of a medical expert who translates [CPP] findings into an RFC determination"). Specifically, the ALJ limited Hannum to "[w]ork involving simple, routine, repetitive tasks," among other limitations. (AR 141.) Indeed, this limitation seems entirely consistent with Hannum's testimony about her ability to function at her part-time job if limited to the same routine tasks. (AR 171-72.) As such, the court rejects this basis for remand.

## **II. Evaluation of Dr. Poirier's Opinion**

Since Hannum filed her claim before March 27, 2017, the treating physician rule still applies to this case. *See* 82 Fed. Reg. 5844-01, 2017 WL 168819, at \*5844 (Jan. 18, 2017). Under this requirement, if an ALJ does not give the opinion controlling weight, then he must decide what weight should be given by considering, to the extent applicable, specific regulatory factors. *See Gerstner v. Berryhill*, 879 F.3d 257, 263 (7th Cir. 2018) (citing 20 C.F.R. § 404.1527(c)). These factors include: (1) "the treatment relationship's length, nature, and extent"; (2) "the opinion's consistency with other evidence"; (3) "the explanatory support for the opinion"; and (4) "any specialty of the treating physician." *See id.* (citing 20 C.F.R. § 404.1527(c)).

Plaintiff contends that the ALJ violated this rule by failing to place sufficient weight on Dr. Poirier's opinion, and specifically her May 25, 2017, opinion, Hannum had "serious limitations, an inability to meet workplace competitive standards, and no capacity to function in various aspects of mental abilities and capacities required for" even unskilled

work, and that “she would likely miss more than 5 days per month due to impairments or treatment.” (AR 144.)

The ALJ discounted Dr. Poirier’s opinions because they “call for more severe restrictions than are supported by the overall evidence of record,” specifically noting (1) that since her May 2016 hospitalization, Hannum been noted as “stable on her treatment regimen”; (2) mental health examinations have shown “findings mostly within normal limits; (3) her testimony that she has seen improvement with consistent attendance at appointment and medical compliance; and (4) her ability to work part time and having requested additional hours. (AR 145.)

These reasons provide an adequate basis for the ALJ’s rejection of Dr. Poirier’s opinion, namely, finding it inconsistent with the record as a whole. *See Schmidt v. Astrue*, 496 F.3d 833, 842 (7th Cir. 2007) (“[W]hile the treating physician’s opinion is important, it is not the final word on a claimant’s disability.” (internal citation and quotation marks omitted)). Moreover, to the extent plaintiff argues that Dr. Poirier’s opinion was supported by two other treating sources, Dr. Capriolo and social worker Dan Horgan, the ALJ provided an explanation for discounting both of these opinions as well (AR 145), and plaintiff offers no challenge the ALJ’s treatment of their respective opinions. As such, the court rejects this basis for remand as well.

ORDER

IT IS ORDERED that:

- 1) The decision of defendant Kilolo Kijakazi, Acting Commissioner of Social Security, denying plaintiff Sheila Jean Hannum's application for social security disability benefits is AFFIRMED.
- 2) The clerk's office is directed to enter judgment in defendant's favor and close this case.

Entered this 29th day of September, 2021.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge