[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 23-11233

Non-Argument Calendar

AMY HARP ADAMS,

Plaintiff-Appellant,

versus

SOCIAL SECURITY ADMINISTRATION, COMMISSIONER,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama
D.C. Docket No. 4:21-cv-01300-SGC

Before WILSON, LUCK, and BRASHER, Circuit Judges.

PER CURIAM:

Amy Adams appeals the denial of her application for disability insurance benefits from the Social Security Administration, challenging the administrative law judge's treatment of her physician's opinion. She argues that the ALJ was statutorily required to give the opinion special weight and that regulations to the contrary are invalid. In the alternative, Adams argues that, even under the current regulations, the ALJ erred because her articulation of the supportability and consistency of the opinion fell short of the regulatory requirements and was not supported by substantial evidence.

We conclude that the ALJ was not required to afford special weight to the treating physician's opinion. Because the ALJ's articulation of the supportability and consistency of the opinion met the regulatory requirements and was supported by substantial evidence, we affirm.

I.

After her previous attempt to secure disability insurance benefits was unsuccessful, Adams applied again in January 2020. Adams claims that she has been disabled since 2014 because of asthma, breathing problems, degenerative disc disease, and depression. After both her initial claim and request for reconsideration were denied, she requested a hearing before an ALJ.

Following a hearing, the ALJ denied Adams's application. The ALJ determined that during the relevant period, Adams had the residual functional capacity to perform sedentary work. Alongside other records, the ALJ considered the opinion of Dr. Robinson, one of Adams's physicians. Dr. Robinson opined that Adams would be off task fifty percent of the time and would fail to report to work twenty-five days a month because of her medical condition.

The ALJ found Dr. Robinson's opinion unpersuasive for four reasons: (1) the opinion was a simple form consisting of circled responses to pre-written questions with no real opportunity for a medical explanation, rendering the responses of little probative value; (2) the form was prepared by Adams's counsel, and the questions were leading; (3) the responses were inconsistent with Dr. Robinson's medical treatment records, which noted back tenderness and limited motion, but did not otherwise reflect acute symptoms; and (4) the responses were inconsistent with the other evidence that showed Adams's asthma was controlled, she never sought mental health treatment, and she could perform daily activities supporting a greater functional ability, such as cooking, shopping, and driving.

On appeal, Adams argues that the ALJ erred by failing to give special weight to Dr. Robinson's opinion under the treating-physician rule. She contends that the SSA's recent elimination of that rule is not entitled to *Chevron* deference because it is inconsistent with the applicable statute, 42 U.S.C. § 423(d)(5)(B). *See Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837

(1984). Even if the new regulation is valid, she argues that the ALJ failed to articulate her assessment of the supportability and consistency of Dr. Robinson's opinion and that substantial evidence did not support the ALJ's decision to afford the opinion little weight. We will consider each argument in turn.

II.

"We review *de novo* the ALJ's application of legal principles, and we review the ALJ's resulting decision to determine whether it is supported by substantial evidence." *Buckwalter v. Acting Comm'r of Soc. Sec.*, 5 F.4th 1315, 1320 (11th Cir. 2021) (quotation marks omitted)

III.

A.

In considering a disability claim, an ALJ "shall make every reasonable effort to obtain from the individual's treating physician (or other treating health care provider) all medical evidence, including diagnostic tests, necessary in order to properly make such determination, prior to evaluating medical evidence obtained from any other source on a consultative basis." 42 U.S.C. § 423(d)(5)(B). For claims filed after March 27, 2017, a new SSA regulation says that ALJs are not required to give "any specific evidentiary weight" to treating physicians' opinions. 20 C.F.R. § 404.1520c(a). In *Harner*, we considered whether our "earlier precedents establishing and applying the treating-physician rule are still good law, notwithstanding the promulgation of" the new regulation. *Harner v. Soc. Sec.*

Admin., Comm'r, 38 F.4th 892, 896 (11th Cir. 2022). We concluded that they were not. Although the statute "instructs administrative law judges to 'make every reasonable effort to obtain from the individual's treating physician' . . . the Act does not specify how this evidence is to be weighed." *Id.* at 897 (quoting 42 U.S.C. § 423(d)(5)(B)). Therefore, because the regulation fell within the SSA's express delegation and was not "manifestly contrary to the statute," *see Chevron*, 467 U.S. at 844, we determined that the regulation did not exceed the Commissioner's authority. *Id.*

Before reaching the merits of Adams's first argument, we first conclude that she did not forfeit the argument by failing to raise it below. In the district court, she argued that the ALJ failed to give adequate weight to Dr. Robinson's opinion and may therefore deploy whatever arguments she can to support that issue on appeal. *In re Home Depot Inc.*, 931 F.3d 1065, 1086 (11th Cir. 2019) (explaining that once an issue is raised, parties may bring whatever arguments they wish relating to that issue on appeal).

Adams cannot succeed on the merits, however, because her argument is foreclosed by our decision in *Harner*. Although *Harner* did not discuss all the statutory interpretation arguments Adams raises, that does not permit us to disregard it. *See In re Lambrix*, 776 F.3d 789, 794 (11th Cir. 2015) ("[W]e have categorically rejected an overlooked reason or argument exception to the prior-panel-precedent rule."). Accordingly, we reject Adams's first argument and conclude that the ALJ was not required to afford special weight to Dr. Robinson's opinion.

B.

The ALJ's factual findings, when supported by substantial evidence, are conclusive. 42 U.S.C. § 405(g). Substantial evidence is "more than a scintilla" or "such evidence as a reasonable person would accept as adequate to support the conclusion." *Foote v. Chater*, 67 F.3d 1553, 1560 (11th Cir. 1995). The reviewing court "may not decide the facts anew, reweigh the evidence, or substitute [its] judgment for that of the Commissioner." *Winschel v. Comm'r of Soc. Sec.*, 631 F.3d 1176, 1178 (11th Cir. 2011) (quotation and alteration marks omitted). And when the SSA Appeals Council denies review, the ALJ's decision is the decision of the Commissioner. *Viverette v. Comm'r of Soc. Sec.*, 13 F.4th 1309, 1313 (11th Cir. 2021).

An ALJ must articulate how she considered the "supportability" and "consistency" of relevant medical opinions. 20 C.F.R. § 404.1520c(a), (b)(2); *see also* 42 U.S.C. § 405(b)(1). Supportability means "[t]he more relevant the objective medical evidence and supporting explanations presented by a medical source are to support his or her medical opinion(s)," the more persuasive that opinion will be. 20 C.F.R. § 404.1520c(c)(1). Consistency refers to the consistency of a medical opinion "with the evidence from other medical sources and nonmedical sources in the claim." *Id.* § 404.1520c(c)(2). The more supportable and consistent a medical opinion is, the more weight the ALJ affords it in her determination. *Id.* § 404.1520c(b)(2). And although ALJs are required to discuss consistency, their opinions should be read as a whole and need not repeat a discussion of the facts that establish inconsistency, merely

to place it near the conclusion that an opinion is inconsistent with the medical evidence. *Raper v. Comm'r of Soc. Sec.*, 89 F.4th 1261, 1275–76 (11th Cir. 2024).

The ALJ articulated her assessment of the supportability and consistency of Dr. Robinson's opinion. She discussed the fact that the opinion was in check-box form, rendering the responses of little probative value because they were leading questions that did not allow for elaboration. We have held that "check box" opinions cannot be dismissed as conclusory on that basis alone and should be read in light of the provider's treatment notes. *Schink v. Comm'r of Soc. Sec.*, 935 F.3d 1245, 1262 (11th Cir. 2019). But the ALJ noted that the opinion was inconsistent with both Dr. Robinson's treatment notes and with the other medical evidence, including Adams's own report of her daily activities.

The ALJ's decision to afford little weight to Dr. Robinson's opinion was supported by substantial evidence. Dr. Robinson's treatment notes referred to acute back pain only once, and he did not explain his opinions that would support such extreme limitations. The timing of Dr. Robinson's completion of the form was also questionable. Not only did Adams request he fill out the paperwork discussing her back issues a week *before* she was set to undergo spinal surgery by another doctor, but it had also been four years since Adams had last seen Dr. Robinson. Adams's other medical evidence was also consistent with episodic back pain that was responsive to treatment, and her own self-report reflected daily activities exceeding the limitations in Dr. Robinson's opinion.

Accordingly, we conclude that the ALJ's decision to afford little weight to Dr. Robinson's opinion was supported by substantial evidence.

IV.

AFFIRMED.