

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

Ana Cancel-Muñiz o/b/o A.Y.L.C. v. Frank J. Bisignano,  
Commissioner of Social Security

Cancel-Muñiz · No. Civil No. 25-1221 (HRV) · Decided April 1, 2026

SUMMARY

The United States District Court for the District of Puerto Rico affirmed the Commissioner of Social Security’s denial of supplemental security income benefits for a child claimant. The court held that the administrative law judge’s determination that the claimant’s impairments did not meet, medically equal, or functionally equal a listed impairment was supported by substantial evidence. The court rejected challenges concerning the domains of acquiring and using information, interacting and relating with others, and health and physical well-being.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Puerto Rico                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Héctor L. Ramos-Vega                                                                                                                                                                                                                                                                 |
| JURISDICTION          | United States District Court for the District of Puerto Rico                                                                                                                                                                                                                         |
| DECIDED               | April 1, 2026                                                                                                                                                                                                                                                                        |
| DOCKET                | Civil No. 25-1221 (HRV)                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Action under 42 U.S.C. § 405(g) seeking review of the Commissioner's final decision denying a child's application for supplemental security income. The parties consented to judgment by a United States Magistrate Judge under 28 U.S.C. § 636(c).                                  |
| STANDARD OF REVIEW    | The court reviews whether the ALJ applied the correct legal principles and whether the decision is supported by substantial evidence. The Commissioner's factual findings are conclusive if supported by substantial evidence, and the reviewing court may not reweigh the evidence. |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                                                          |
| PARTIES               | Ana Cancel-Muñiz o/b/o A.Y.L.C. v. Frank J. Bisignano,<br>Commissioner of Social Security                                                                                                                                                                                            |

## TOPICS

judicial review of agency action

administrative law

disability definition

ada / disability

## PRACTICE AREAS

Social Security

administrative law

disability benefits

judicial review of agency action

## QUESTIONS PRESENTED

1. Whether the ALJ's finding that the claimant had less than a marked limitation in acquiring and using information was supported by substantial evidence and adequately explained.
2. Whether the ALJ's finding that the claimant had less than a marked limitation in interacting and relating with others was supported by substantial evidence.
3. Whether the ALJ's finding that the claimant had less than a marked limitation in health and physical well-being was supported by substantial evidence.
4. Whether any alleged errors in evaluating the functional domains were harmless because the claimant did not establish marked limitations in another domain.

## HOLDINGS

1. The court must uphold the Commissioner's decision when the ALJ applied the correct legal standards and the decision is supported by substantial evidence; the reviewing court may not reweigh the evidence.
2. A child is functionally equal to a listed impairment only if the impairment results in marked limitations in two domains of functioning or an extreme limitation in one domain.
3. Any alleged error in the ALJ's evaluation of the acquiring-and-using-information domain was harmless because the claimant did not show marked limitations in another domain or an extreme limitation in any domain.
4. Substantial evidence supported the ALJ's finding that the claimant had less than a marked limitation in interacting and relating with others.
5. Substantial evidence supported the ALJ's finding that the claimant had less than a marked limitation in health and physical well-being; frequent episodes do not automatically require a finding of marked limitation under 20 C.F.R. § 416.926a(e)(2)(iv).
6. Any alleged error concerning the interacting-and-relating-with-others or health-and-physical-well-being domains was harmless because the claimant could not demonstrate marked limitations in another domain.

## KEY QUOTATIONS

*"The Commissioner's decision is AFFIRMED."* (1)

*"A reviewing Court must uphold the decision of the Commissioner if the Administrative Law Judge ("ALJ") applied the correct legal principles, and the determination is supported by substantial evidence."* (2)

*“In view of the above, I find that the ALJ’s decision is supported by substantial evidence. For that reason, the decision of the Commissioner is hereby AFFIRMED.” (13)*

## FACTUAL BACKGROUND

The claimant was a nine-year-old child who allegedly suffered from autism, attention deficit disorder, asthma, conductive hearing loss, anxiety, ADHD, and learning difficulties. The ALJ found several severe impairments but determined that the impairments did not meet, medically equal, or functionally equal a listed impairment because the claimant did not have marked limitations in two functional domains or an extreme limitation in one domain. The district court reviewed the ALJ's findings concerning acquiring and using information, interacting and relating with others, and health and physical well-being, and concluded that substantial evidence supported the decision.

## PROCEDURAL HISTORY

Plaintiff applied for SSI on behalf of her minor son on March 3, 2022. The application was denied initially and on reconsideration; following a hearing, the ALJ denied benefits on March 26, 2024. The Appeals Council denied review on February 13, 2025, making the ALJ's decision the Commissioner's final decision. The district court affirmed the Commissioner's decision.

## DISPOSITION

affirmed

## CASES CITED

- Seavey v. Barnhart, 276 F.3d 1, 9 (1st Cir. 2001)
- Ward v. Comm'r of Soc. Sec., 211 F.3d 652, 655-56 (1st Cir. 2000)
- Manso-Pizarro v. Sec'y of Health & Human Servs., 76 F.3d 15, 16 (1st Cir. 1996)
- Purdy v. Berryhill, 887 F.3d 7, 13 (1st Cir. 2018)
- Biestek v. Berryhill, 587 U.S. 97, 102-03 (2019)
- Irlanda-Ortiz v. Sec'y of Health & Human Servs., 955 F.2d 765, 769 (1st Cir. 1991)
- Nguyen v. Chater, 172 F.3d 31, 35 (1st Cir. 1999)
- Pagan ex rel. A.C. v. Astrue, 718 F. Supp. 2d 176, 181, 184 (D. Mass. 2010)
- Beliveau ex rel. Beliveau v. Apfel, 154 F. Supp. 2d 89, 93 (D. Mass. 2001)
- Lopez v. Colvin, 2017 WL 2273145, at \*1, \*5 (D. Mass. May 24, 2017)
- Walker v. Kijakazi, 2023 WL 7443302, at \*5 (5th Cir. Nov. 9, 2023)
- Olivera-Bahamundi v. Comm'r of Soc. Sec., 2021 WL 1177339, at \*6 (D.P.R. Mar. 29, 2021)
- Hamedallah ex rel. E.B. v. Astrue, 876 F. Supp. 2d 133, 149 (N.D.N.Y. 2012)
- N.L.R.B. v. Beverly Enterprises-Massachusetts, 174 F.3d 13, 26 (1st Cir. 1999)
- Bricker v. Astrue, 2010 WL 4984214, at \*6 (W.D. Penn. Dec. 2, 2010)
- J.B. ex rel. Barboza v. Astrue, 738 F. Supp. 2d 260, 265 (D. Mass. 2010)

## OPINION

1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF PUERTO RICO 3 4 ANA CANCEL-MUÑIZ O/B/O A.Y.L.C., 5 Plaintiff, 6 v. 7 CIVIL NO. 25-1221 (HRV) 8 FRANK J. BISIGNANO Commissioner of Social Security, 9 10 Defendant. 11 12 OPINION AND ORDER 13 Plaintiff Ana Cancel-Muñiz (“Plaintiff”) brings the instant action on behalf of her 14 minor son, A.Y.L.C. (“Claimant”), pursuant to 42 U.S.C. § 405(g) of the Social Security 15 16 Act (“the Act”), seeking a review of the Commissioner of Social Security’s decision to deny 17 her application for supplemental security income (“SSI”).

The Commissioner filed his 18 brief arguing that the decision should be affirmed because it is based on substantial 19 evidence. The parties have consented to the entry of judgment by a United States 20 Magistrate Judge under 28 U.S.C. § 636(c).

After careful consideration of the record, and 21 22 for the reasons outlined below, the Commissioner’s decision is AFFIRMED. 23 I. LEGAL FRAMEWORK 24 A. Standard of Review 25 Pursuant to 42 U.S.C. § 405(g), any individual may obtain review of a final 26 decision of the Commissioner in which he or she was a party.

Under said provision, the 27 28 1 1 Court is empowered “to enter, upon the pleadings and transcript of the record, a 2 judgment affirming, modifying, or reversing the decision of the Commissioner [...]” Id. 3 In addition, the statute provides that if supported by substantial evidence, the findings 4 of the Commissioner as to any fact, shall be conclusive. Id. 5 A reviewing Court must uphold the decision of the Commissioner if the 6 7 Administrative Law Judge (“ALJ”) applied the correct legal principles, and the 8 determination is supported by substantial evidence.

*Seavey v. Barnhart*, 276 F.3d 1, 9 9 (1st Cir. 2001). The scope of my review is thus limited. I am tasked with determining 10 whether the ALJ employed the proper legal standards and focused facts upon the proper 11 quantum of evidence. See *Ward v. Comm’r of Soc. Sec.*, 211 F.3d 652, 655 (1st Cir. 2000); 12 13 see also *Manso-Pizarro v. Sec’y of Health and Human Servs.*, 76 F.3d 15, 16 (1st Cir.

14 1996). 15 To meet the evidentiary benchmark, more than a scintilla of evidence is required. 16 *Purdy v. Berryhill*, 887 F.3d 7, 13 (1st Cir. 2018). But the threshold for evidentiary 17 sufficiency is not particularly high; if after looking at the existing administrative record, 18 19 the reviewing court is persuaded that it contains sufficient evidence to support the 20 Commissioner’s factual determinations, the decision is bound to be upheld.

See *Biestek v. Berryhill*, 587 U.S. 97, 102-03 (2019) (cleaned up). Substantial evidence exists when 22 “a reasonable mind, reviewing the evidence in the record, could accept it as adequate to 23 support [the] conclusion.” *Irlanda-Ortiz v. Sec’y of Health & Human Servs.*, 955 F.2d 24 765, 769 (1st Cir. 1991).

The ALJ's decision must be reversed, however, if it was arrived 25 26 at "by ignoring evidence, misapplying law, or judging matters entrusted to experts." 27 *Nguyen v. Chater*, 172 F.3d 31, 35 (1st Cir. 1999). 28 2 1 B. The Three-Step Sequential Evaluation Process 2 Unlike most adult disability cases handled by this Court, the instant action 3 involves childhood benefits that are determined under "somewhat different standards." 4 *Pagan ex rel.*

*A.C. v. Astrue*, 718 F. Supp. 2d 176, 181 (D. Mass. 2010). Under the 5 provisions of the Act, "a child under the age of 18 is considered 'disabled' for purposes of 6 7 eligibility for SSI benefits if he has a medically determinable physical or mental 8 impairment which results in marked and severe functional limitation, and which has 9 persisted or can be expected to persist for a continuous period of at least 12 months or 10 result in death." *Beliveau ex rel.*

*Beliveau v. Apfel*, 154 F. Supp. 2d 89, 93 (D. Mass. 2001). 11 In determining whether a child is eligible for SSI benefits on the basis of disability, a 12 13 three-step evaluation process is followed. *Lopez v. Colvin*, 2017 WL 2273145, at 1 (D. 14 Mass. May 24, 2017); 20 C.F.R. § 416.924.

First, the Commissioner must determine 15 whether the child is engaging in "substantial gainful activity." *Beliveau ex rel. Beliveau*, 16 154 F. Supp. 2d at 93. If not, the Commissioner must next determine whether 17 the child has an impairment (or a combination of impairments) that is 18 19 "severe." *Id.* Third, the Commissioner must determine whether the impairment meets, 20 medically equals, or functionally equals an impairment listed in the "Listing of 21 Impairments." *Id.* If the child's impairment does not meet, medically equal, or 22 functionally equal a "listed" impairment, the child will be deemed "not disabled" and 23 benefits will be denied.

*Id.* (quoting 20 C.F.R. § 416.924(d)). 24 25 II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY 26 On March 3, 2022, Plaintiff filed an application on behalf of Claimant for SSI. See 27 Transcript of Social Security Proceedings ("Tr"), Dkt. No. 14, Tr. 15. Claimant was 9 years 28 3 1 old at the time of the filing of the application and allegedly suffered from autism and 2 attention deficit disorder.

Tr. 74. On July 14, 2022, Claimant's application was denied 3 initially, and upon reconsideration on February 8, 2023. Thereafter, a written request 4 for a hearing was filed, which was held on February 21, 2024, via telephone. Tr. 15. 5 Claimant testified with the assistance of a Spanish interpreter.

The Claimant was 6 7 represented by attorneys Michael Pail Mazanetz and Richard Magill. On March 26, 2024, 8 the ALJ issued a decision denying the claim for benefits. Tr. 15-23. The Appeals Council 9 denied Plaintiff's request for review on February 13, 2025, making the ALJ's opinion the 10 final decision of the Commissioner. Tr. 1. I briefly summarize below the ALJ's written 11 decision.

12 13 The ALJ stated that he considered all symptoms and objective medical evidence. 14 Tr. 15-23. The ALJ applied the three-step sequential evaluation process set forth by the 15 relevant regulations to determine whether a child is disabled. 20 C.F.R. § 416.924(a). At 16 step one, he determined that Claimant had not engaged in substantial gainful activity 17 on or after the application date.

Tr. 16. At step two, the ALJ found that Claimant had 18 19 the following severe impairments: asthma, conductive hearing loss, attention deficit 20 hyperactivity disorder (ADHD), anxiety disorder, autism spectrum disorder, and 21 learning difficulties. Id. The ALJ also found that Claimant had the following non-severe 22 impairments, which were going to be accounted for in the domains of functioning 23 analysis: cellulitis, otitis media, gastroenteritis, and eczema.

Id. Finally, at step three, 24 the ALJ concluded that, as of the alleged onset date of March 3, 2022, Claimant did not 25 26 have an impairment that “functionally equaled” any of the listed impairments. Id. The 27 ALJ specifically considered listings 102.10, 103.03, 112.05, 112.06, 112.10, and 112.11.

As 28 4 1 to listing 102.10, the ALJ noted that Claimant had mild conductive hearing loss but there 2 was no evidence that he had an average air conduction hearing threshold of 70 decibels 3 or greater, or a marked speech or language limitation.

As for listing 103.03, the evidence 4 did not document three (3) hospitalizations of at least 48 hours in a 12-month period. Tr. 5 17. With respect to Claimant’s mental impairments, the ALJ considered whether the 6 7 Paragraph B criteria was satisfied and found moderate limitations in all broad areas of 8 functioning. Id. 9 Because the ALJ determined at step three that Claimant did not have an 10 impairment (or combination of impairments) that “met or medically equaled” one of the 11 listed impairments, “the ALJ’s analysis turned on whether Claimant had an impairment 12 13 that ‘functionally equaled’ a listed impairment.” Lopez, 2017 WL 2273145, at 5.

14 Functional equivalency is measured in six “domains:” (1) acquiring and using 15 information, (2) attending and completing tasks, (3) interacting and relating with others, 16 (4) moving about and manipulating objects, (5) caring for oneself, and (6) health and 17 physical well-being. See 20 C.F.R. § 416.926a(b)(1).

To qualify as functionally equivalent 18 19 to a listing, the child’s impairment “must result in [either] ‘marked’ limitations in two 20 domains of functioning or an ‘extreme’ limitation in one domain.” 20 C.F.R. § 21 416.926a(a).

The child has a “marked” limitation—i.e., one “that is ‘more than moderate’ 22 but ‘less than extreme’”—when the impairment “interferes seriously with [the child’s] 23 ability to independently initiate, sustain, or complete activities.” 20 C.F.R. § 24 416.926a(e)(2)(i).

On the other hand, the child has an “extreme” limitation—i.e., “the 25 26 rating [the Commissioner] gives to the worst limitations”—when the impairment 27 “interferes very seriously with [the child’s] ability to independently initiate, sustain, or 28 5 1 complete activities.” 20 C.F.R. § 416.926a(e)(3)(i).

To functionally equal the listings, an 2 impairment must result in “marked” limitations in two of the domains, or an “extreme” 3 limitation in one domain. Id. § 416.926a(a). “In making these determinations, the ALJ 4 considers all relevant factors, including but not limited to: (1) how well the child can 5 initiate and sustain activities, how much extra help [ ]he needs, and the effects of 6 7 structured or supportive settings; (2) how [ ]he functions in school; and (3) the effects of 8 h[is] medications or other treatment.” Lopez, 2017 WL 2273145, at 5.

After determining 9 that Claimant did not have “marked” limitations in two domains or an “extreme” 10 limitation in one domain, the ALJ concluded that Claimant did not have an impairment 11 that “functionally equaled” a listed impairment prior to March 3, 2022, and was, thus, 12 13 not disabled. Tr. 23. 14 III. DISCUSSION 15 Plaintiff argues that the ALJ erred in his decision that Claimant’s impairments did 16 not functionally equal the severity of the listings.

She specifically takes issue with the 17 determination as to three of six domains: acquiring and using information; interacting 18 19 and relating to others; and health and physical well-being. As explained in detail below, 20 I find that the ALJ’s decision concerning each domain was supported by substantial 21 evidence. 22 A. Issue 1: Acquiring and Using Information Domain 23 The domain of acquiring and using information examines how well a child is able 24 to learn information, and how well he uses the information that he has learned.

20 C.F.R. 25 26 § 416.926a(g). After evaluating the state agency consultants’ opinions, which found that 27 Claimant had a “marked” limitation in this domain, the ALJ ultimately ruled that 28 6 1 Claimant had a “less than marked limitation” in the acquiring and using information 2 domain. Tr. 18-19. Plaintiff argues that the ALJ improperly evaluated the findings of the 3 state agency consultants because he “neglected to discuss the evidence” state agency 4 consultants relied upon in finding that Claimant was markedly limited in this domain.

5 Docket No. 17 at p. 13. And that the ALJ needed to explain how he considered the 6 7 “supportability” and “consistency” factors when evaluating medical opinions in 8 Claimant’s determination. 9 However, a finding that Claimant has a marked limitation as to this domain does 10 not change the outcome of the case.<sup>1</sup> Social Security regulation requires at least two 11 marked limitations or one extreme limitation in any of the six domains to functionally 12 13 equal the listings.

See 20 C.F.R. § 416.926a(d). Neither the ALJ nor the state agency 14 consultants found that Claimant had marked limitations or an extreme limitation in any 15 other domain. And remanding

for the ALJ to discuss the supportability and consistency 16 factors in arriving at his decision would “amount to no more than an empty exercise,” 17 given that, as will be discussed below, I find that the ALJ did not err in concluding that 18 19 Claimant had less than marked limitations in the domains of interacting and relating with 20 others and physical well-being.

Ward v. Comm’r of Soc. Sec., 211 F.3d 652, 656 (1st Cir. 21 2000); see also Walker v. Kijakazi, 2023 WL 7443302, at \*5 (5th Cir. Nov. 9, 2023) 22 (“Even if the ALJ did not adequately articulate her reasoning using the ‘supportability’ 23 24 25 26 1 Plaintiff notes that the evidence cited in her brief for this Court’s review supports the state agency 27 consultants’ finding of a marked limitation.

She points to no evidence supporting an extreme limitation finding. See Docket No. 17 at p.16. 28 7 1 and ‘consistency’ factors, any error was harmless because Walker fails to show that had 2 she more fully done so, she would have arrived at a different conclusion.”). Ultimately, 3 the Court is being asked to reweigh the evidence,2 and it will abstain from doing so.

See 4 Olivera-Bahamundi v. Comm’r of Social Sec., 2021 WL 1177339, at \*6 (D.P.R. Mar. 29, 5 2021). 6 7 B. Issue 2: Interacting and Relating with Others 8 Plaintiff contends the ALJ erred by finding that Claimant has a “less than marked 9 limitation” in interacting and relating with others. Docket No. 17 at pp. 18-20.

The 10 domain of interacting and relating with others “considers how well the child initiates and 11 sustains emotional connections with others, develops and uses the language of his 12 13 community, cooperates with others, complies with rules, responds to criticism, and 14 respects and takes care of the possessions of others.” Hamedallah ex rel. E.B. v. Astrue, 15 876 F. Supp. 2d 133, 149 (N.D.N.Y.

2012). See also 20 C.F.R. § 416.926a(i). For children 16 Claimant’s age, regulations provide: 17 18 School-age children (age 6 to attainment of age 12). When you enter school, you should be able to develop more lasting 19 friendships with children who are your age. You should begin 20 to understand how to work in groups to create projects and solve problems.

You should have an increasing ability to 21 understand another’s point of view and to tolerate differences. 22 23 2 In its decision, the ALJ considered the improvement in Claimant’s academic performance and 24 school functioning; how he was moved to a larger group; Claimant’s uncle statements in January 2024 that Claimant was doing well and his grades were good; improved attention.

Tr. 22, 1118, 1220, 1222, 1225, 25 1227, 1236, 1239, 1242, 1244. 26 Plaintiff urges the Court to consider Claimant’s Individualized Educational Program for his third- grade school year but said document is in Spanish. See D.P.R. Local Civ. R. 5(c). See also Docket No. 17 at 27 p. 15; Tr. 101-



1017. 28 8 1 You should be well able to talk to people of all ages, to share ideas, tell stories, and to speak in a manner that both familiar 2 and unfamiliar listeners readily understand.

3 20 C.F.R. § 416.926(g)(2)(iv). 4 Here, the ALJ found that Claimant had less than marked limitations in this area. 5 Tr. 20-22. The ALJ's analysis spanned from early 2022 until 2024. The ALJ noted that 6 as per Plaintiff's testimony on March 15, 2022, Claimant, who suffered from autism and 7 8 attention deficit, had only one friend. Tr. 19, 258-263.

The ALJ also noted that Claimant 9 was bullied at school and had a short attention span that improved with medications. Id. 10 In August 2022, Claimant had a therapy session where Plaintiff stated that Claimant had 11 been controlling his anger better. Tr. 20, 431.

The ALJ acknowledged that in the fall of 12 2022, Claimant continued therapy for his mental health and, although he continued 13 14 controlling his anger, he was the victim of bullying in school. Tr. 20, 414. By June 2023, 15 Plaintiff reported that Claimant was easily distracted in school, hyperactive, and 16 disruptive. Tr. 20. And that he was distracting others in school.

However, in November 17 2023, Plaintiff reported that he was "okay" overall regarding school. Tr. 1236. Claimant's 18 "level ha[d] been going up and he has been doing very good in [class]." Id. Importantly, 19 the ALJ noted that in a medication check that took place in January 2024, Claimant's 20 21 uncle informed that "school has been going well. [...] He is focusing better at school; now 22 that we have increased medications.

[Claimant] reports that school is going well[.] ... 23 Family denies further concerns at this time." Tr. 21, 1242. Claimant's grades were "good." 24 Id. Further, the ALJ found persuasive the opinion of psychological consultative examiner 25 Dr. David Chiarella. 26 27 28 9 1 Plaintiff points out that the ALJ needed to consider Claimant's autism diagnosis, 2 the Individualized Education Plan, and the school suspensions that took place in 2023.

3 But ALJs are not obliged to explicitly address every piece of evidence considered in 4 reaching their decision. *N.L.R.B. v. Beverly Enterprises-Massachusetts*, 174 F.3d 13, 26 5 (1st Cir. 1999); *Tassel v. Astrue*, 882 F. Supp. 2d 143, 148 (D. Me. 2012). And the truth 6 7 of the matter is that the record contains evidence demonstrating improvement. Plaintiff 8 is asking the Court to do the impermissible: reweigh the evidence already evaluated by 9 the ALJ.

See *Olivera-Bahamundi v. Comm'r of Social Sec.*, 2021 WL 1177339, at \*6 10 (D.P.R. Mar. 29, 2021). I find that substantial evidence supports the ALJ's finding that 11 Claimant had a less than marked limitation in the interacting and relation with others 12 13 domain. 14 C. Issue 3: Health and Physical Well-Being Domain 15 As noted, the ALJ also found that Claimant had less than marked limitations in 16 the domain of health and physical well-being.

Tr. 18-19. Claimant sustains that this 17 finding is not supported by substantial evidence because, although the ALJ noted 18 19 Claimant's asthma exacerbations, he "oversimplified" the record. Docket No. 17 at pp. 20 21-22. Plaintiff urges the Court to find that Claimant's ten (10) events of illness during 21 2022 and 2023 support a "marked" limitation finding.

Id. The Commissioner contends 22 that the "less than marked limitation" is supported by substantial evidence because 23 Claimant responded well to treatment, played sports, had mild conductive hearing loss, 24 and did not suffer any major side effects from his medications. Docket No. 19 at pp. 11- 25 26 13. 27 28 10 1 A child has "marked limitations" in the domain of health and physical well-being 2 if he is frequently ill because of the impairments, or if he has frequent exacerbations of 3 the impairments resulting in significant, documented symptoms or signs.

20 C.F.R. § 4 416.926a(e)(2)(iv). For the purposes of this domain, 5 6 [f]requent means that you have episodes of illness or exacerbations that occur on an average of 3 times a year, or 7 once every 4 months, each lasting 2 weeks or more.

We may 8 also find that you have a "marked" limitation if you have episodes that occur more often than 3 times in a year or once 9 every 4 months but do not last for 2 weeks, or occur less often than an average of 3 times a year or once every 4 months but 10 last longer than 2 weeks, if the overall effect (based on the 11 length of the episode(s) or its frequency) is equivalent in severity.

12 Id. Further, a child has "extreme limitations" if he or she has symptoms that are 13 substantially in excess of the requirements for showing a "marked limitation." Id. § 14 15 416.926a(e)(3)(iv). 16 Here, the ALJ considered in his opinion Claimant's episodes of illness in detail. 17 He noted Claimant's March 2022 asthma exacerbation "after having a cold" and having 18 run out of Albuterol; Claimant's May 2022 asthma exacerbation in connection with 19 influenza; the emergency room visit in September 2022 due to a "cough but no shortness 20 of breath;" appointments during October and November 2022 due to cough that at times 21 22 required the use of an inhaler; Claimant's "tympanostomy tube placement surgery" in 23 November 2022 (ear tube surgery); COVID-19 episode in May 2023; and Claimant's 24 upper respiratory infection in November 2023.

Tr. 19-21, 415. Plaintiff contends that the 25 ALJ should have found, pursuant to 20 C.F.R. § 416.926a(e)(2)(iv), a marked limitation 26 in this domain because Claimant had "exacerbations of asthma on March 22, 2022, May 27 28 11 1 16, 2022, June 7, 2022 (he was very sick for a couple of weeks) October 20, 2022, 2 November 10, 2022, February 21, 2023 (four-day illness), and November 24, 2023." 3 Docket No. 17 at p. 21.

And that "[c]ombined, there are more than 10 events for illness 4 during 2022 and 2023, which is more frequent than the regulation[']s noted average of 5 6 times for that same period of time." Id.

This argument, however, is unpersuasive. 6 7 First, 20 C.F.R. § 416.926a(e)(2)(iv) does not require the ALJ to find a marked 8 limitation in every instance of frequent exacerbations.

The wording used in the 9 regulation states “may,” which indicates that the ALJ is allowed to, but not obliged. 10 Second, the regulation requires that the “frequent exacerbations” result in significant, 11 documented symptoms or signs. See 20 C.F.R. § 416.926a(e)(2)(iv).

The record here 12 13 shows that Claimant had normal air entry, no wheezing, and chest x-rays were clear (May 14 2022); no shortness of breath, respiratory distress, or wheezing, and normal breath 15 sounds (September 2022); although Claimant used an inhaler, exams showed normal 16 breath sounds and no respiratory distress (fall 2022); normal breath and respiratory 17 effort despite having COVID-19 (May 2023).

Tr. 20-21, 366, 369-370, 424, 413-418, 1097. 18 19 Third, none of the events lasted more than two weeks, as acknowledged by Plaintiff 20 herself. See Docket No. 17 at p. 22 (“two of these events occurred for more than a week;” 21 other events likely lasted longer than a few days each.”). 22 The record also shows that, at most, treatment (Robitussin) was given for up to 23 ten (10) days and Albuterol as needed.

See Tr. 347, 365, 372 (albuterol because of the 24 cough “but [Claimant] has not been in distress”); 393 (“mild, persistent asthma, 25 26 uncomplicated”), 411, 415, 1148. See Pagan ex rel. A.C. v. Astrue, 718 F. Supp. 2d 176, 27 184 (D. Mass. 2010) (finding that although A.C. was seen in the emergency room on four 28 12 1 occasions between February 2008 and January 2009, none of those episodes lasted at 2 least two weeks, hence none qualified for an extreme limitation, but for a less than 3 marked limitation.).

4 Without minimizing Claimant’s medical conditions, the evidence before the Court 5 does not support a finding for “marked” limitations under 20 C.F.R. § 416.926a(e)(2)(iv). 6 7 See Pagan ex rel. A.C., 718 F. Supp. 2d at 184 (“To be sure, A.C. experienced intermittent 8 exacerbations of his asthma, but the acute episodes were not sufficiently prolonged to 9 meet the standard for an extreme impairment.”); Bricker v. Astrue, 2010 WL 4984214, 10 at \*6 (W.D.

Penn. Dec. 2, 2010) (“Despite the number of Plaintiff’s emergency room 11 treatments, the ALJ noted that she had not required any inpatient hospitalizations. 12 13 Physical examinations and medical tests performed during Plaintiff’s emergency room 14 treatments were within normal limits. Further, [...] Plaintiff’s treatment records ... only 15 included “indications of severity ranging from stable to moderately 16 persistent asthma and changes in the claimant’s medication regimen.”).

As noted by the 17 ALJ, Claimant responded well to treatments and played sports. I therefore find that the 18 19 ALJ’s decision was supported by substantial evidence. 20 Finally, even if the ALJ erred in determining that Claimant did not suffer marked 21 limitations in the domain of health

and physical well-being, his error was harmless 22 “unless [P]laintiff can show that [Claimant] suffered marked limitations in another 23 domain as well.” J.B. ex rel.

Barboza v. Astrue, 738 F. Supp. 2d 260, 265 (D. Mass. 2010). 24 But “because, as discussed [above], [P]laintiff cannot demonstrate marked limitations in 25 26 another domain, the ALJ’s alleged error in the health and physical well-being assessment 27 [as well as the interacting and relating with others domain] was harmless.” Id. 28 13 1 IV. CONCLUSION 2 In view of the above, I find that the ALJ’s decision is supported by substantial 3 evidence.

For that reason, the decision of the Commissioner is hereby AFFIRMED. 4 IT IS SO ORDERED. 5 In San Juan, Puerto Rico this 1st day of April, 2026. 6 7 S/Héctor L. Ramos-Vega HÉCTOR L. RAMOS-VEGA 8 UNITED STATES MAGISTRATE JUDGE 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 14