

based, in her view, on her nervousness and on her physical problems. The medical records indicate that the petitioner had had a number of problems and illnesses but all of a minor nature and her treating physician has pronounced her to be physically in general good health. The petitioner's main impediment to work is her mental impairments.

The records show that the petitioner first sought assistance from a community mental health agency in 1980 at a time when her mother's recent death and father's poor health forced all the responsibility on her for home and the family business. She was noted to be very depressed and angry and was diagnosed as having an "adjustment reaction of adult life." She was supposed to enter therapy but there is no evidence that she did. In the next few years, her situation worsened as two favorite relatives died and she was forced to sell the family home and business to pay taxes. She moved into a tiny apartment in an elderly housing project with her father and uncle.

In 1984, a mental health evaluation was performed by that same agency in which the petitioner's mood is described as having gone "beyond depression to despair" and her affect as limited. She was diagnosed as having an "Adjustment Reaction to Adult Life" and "Dependent Personality Disorder." Again, there were plans to treat the petitioner that were apparently not implemented.

By 1985, the petitioner's father died. At about the same time the petitioner was convicted of driving without a

license (it had been suspended for multiple speeding convictions) and referred for evaluation to the same community mental health agency. She was described as having a sense of despair and defeat, as having an angry and sad affect and a confused and worn out demeanor. Her diagnosis was "Dysthymic Disorder" and "Dependent Personality Disorder", and it was noted that she was resistant to therapy. In 1986, the mental health agency had contact with the petitioner again on an emergency basis concerning her housing situation. Her uncle was about to be evicted unless she left his apartment and she refused to do so expressing a hope that he would be evicted.

Pursuant to the petitioner's first Medicaid application, she was evaluated by a psychiatrist in 1987. At that time the petitioner reported feeling quite depressed with no energy, no interests and nothing to look forward to.

She described herself as wanting to do nothing, feeling like crying most of the time and having nothing to look forward to. She had trouble sleeping and had suicidal thoughts. The psychiatrist described her as irritable and intense with only fair insight into her condition. He felt she had experienced a loss of function and ability over the years as her depression grew which was well demonstrated by her former successful handling of the family business and her current inability to tolerate even part-time work. He diagnosed her as having a "personality disorder", "major depression-untreated" and "severe stress-poor functioning."

On September 13, 1988, the petitioner was evaluated by a second psychiatrist. The petitioner again reported severe depression, fatigue, sleeping problems and suicidal thoughts. She also said she quit her last job due to pressure, her lack of transportation, and the low pay. The psychiatrist described her thought content as paranoid and depressed, her affect as distant, her mood as angry and depressed, her concentration as poor, her self-view as grandiose and unrealistic, her interpersonal relationship as poor, her social situation as isolated and her insight as nonexistent. He diagnosed her as suffering primarily from a "personality disorder, paranoid type" and "major depression, single episode, moderate".¹ He determined that her mental illness did not limit her ability to carry out her daily living activities (i.e., ability to care for herself) but did limit the range of those activities. He did find her severely limited in other ways. Socially, she was found to be very limited in her peer relationships, poor in her ability to get on with others, fair in her ability to communicate with others, extremely poor in her ability to relate to persons in authority, and very poor in her ability to cope with social stressors. Although she is of average intelligence, she is mentally limited by poor concentration. With regard to specific work-related deficits she was assessed as having poor judgement, to be poor at making simple decisions, interacting appropriately with supervisors

and co-workers, sustaining work attendance and maintaining production norms. Her ability to cope with work stresses was judged to be extremely poor and the psychiatrist concluded "Her lack of insight into her problems and her unrealistic employment goals make it impossible for her to find work at a wage that she would consider adequate." She was determined to be in need of psychiatric treatment.

The petitioner now lives in a rented room paid for by her uncle. She buys her food with Food Stamps and prepares it at her uncle's home. She has no TV, no phone and no transportation. She spends her days visiting with her uncle and one or two other friends or reading at the library. She has no interests, no hobbies and no energy to do anything. She used to ski but has given that up. She sometimes looks for work but feels she is too tired and nervous to do a full-time job. She is very pessimistic about finding a job that pays anything and is not "dead end". With regard to her past job experience she has said "I hated every job and every boss . . . I hope they all die real soon." However, she subsequently excepted her job as a substitute teacher which was not steady work but work which she enjoyed. She thought even that work would now be too tiring for her.

The petitioner is aware that the consensus of professional opinion is that she needs psychiatric treatment, but she is not interested in it. Even if she could become interested, she has no money to pay for it.

FINDINGS OF FACT

1. The petitioner is thirty-three years old, has a high school education, a year of vocational education and a license to assist in a dentist's office.

2. The petitioner has relevant work experience as a grocery clerk and a dental assistant. Both jobs required her to deal with the public and to work under supervision and with peers.

3. The petitioner was last substantially and gainfully employed in 1981.

4. The petitioner suffers from a personality disorder with paranoid features and major depression which began as early as 1980 and has progressively worsened.

5. As a result of her mental illnesses the petitioner exhibits the following persistent and ingrained behaviors:

- a. pathologically inappropriate suspiciousness or hostility;
- b. oddities of thought and perception [paranoia];
- c. persistent disturbances of mood or affect [hostile and sad];
- d. intense and unstable interpersonal relationships;
- e. anhedonia or pervasive loss of interest in almost all activities;
- f. sleep disturbance;
- g. decreased energy; and
- h. difficulty concentrating.

6. The behaviors listed in paragraph 5 above have resulted in:

- a. marked difficulties in maintaining social functioning as demonstrated by her limited peer relationships, poor ability to get on with and communicate with others, extremely poor ability to relate to persons in authority and very poor ability to cope with social stressors;
- b. the petitioner's failure to complete tasks as a result of poor concentration, poor ability to maintain production norms, and extremely poor ability to cope with work stresses; and
- c. repeated episodes of decompensation in work settings which caused the petitioner to withdraw, i.e., to quit employment.

7. The petitioner has an illness which may be alleviated through psychiatric treatment which she has thus far both refused to undergo and has been unable to pay for.

ORDER

The decision of the department is reversed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

As found above, the medical evidence in this matter establishes that the petitioner fully meets the above definition. Her disability meets the listed level of

severity for both Sections 12.04 (affective disorders) and 12.08 (personality disorders) of 20 C.F.R. § 404, Subpart P, Appendix I. Therefore, the department's decision should be reversed. However, as it does appear that the petitioner's condition may be amenable to treatment, she should understand that her ability to stay on Medicaid may require her to start undergoing psychiatric treatment. She is strongly encouraged to use her benefits to seek immediate treatment from a qualified mental health professional.

FOOTNOTES

¹He also assessed her as suffering from abdominal pains and headaches. However, nothing in the record indicates that these physical ailments are severe or pose any significant barrier to employment.

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