

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9009
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner is 48 years old. Although he went through seven grades of schooling, uncontroverted evidence establishes that he cannot read and write. His past work, which the department concedes he cannot so, included factory and construction labor.

The petitioner suffers from chronic degenerative disc disease that causes low back pain, which is brought on by any vigorous activity and by prolonged standing and sitting. His treating physician states that he is limited to lifting 10 pounds and that he cannot stand or sit for a six-hour workday.

The treating physician's assessment is consistent with, and uncontroverted by the other medical evidence of record. It being found that the petitioner has the limitations described above, the regulations (see below) dictate the conclusion that the petitioner is disabled.

ORDER

The department's decision 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.

In addition to the above, the "grid" regulations provide that an individual of the petitioner's age (48), education level (functionally illiterate)¹, and work experience (unskilled) is considered disabled even if he is limited to a full range of "sedentary work"². 20 C.F.R. § 404, Subpart P, Appendix II, Rule 201.17. Since the petitioner's residual functional capacity is far less than the full range of sedentary work, it must be concluded that he meets the above definition of disability. The department's decision is, therefore, reversed.

FOOTNOTES

¹See 20 C.F.R. § 416.964(b).

²As defined by 20 C.F.R. § 416.967(a).

#