

definition of disability (supplied by the petitioner's attorney) the physician commented:

Yes. [Petitioner] has sustained a large anterior wall infarction which has left her with significant left ventricular dysfunction (heart failure) manifest by exertional angina, dyspnea on exertion, exercise (activity) intolerance and easy fatigability. In addition she has been unfortunate enough to have an irritable focus in her left ventricle which places her at risk for a sudden cardiac dysrhythmia and mandates treatment with an antiarrhythmic (Merilitine). During periods of increased activity as the myocardium becomes relatively hypoxic the risk of dysrhythmia (possibly fatal) increases.

(Emphasis in original.)

While the above assessment appears to be clear and convincing evidence as to the petitioner's limitations, the department pointed out that the petitioner's January, 1989, hospital discharge summary had noted that the petitioner could resume work "tomorrow" and that there were no "restrictions of physical activity". Therefore, at the hearing officer's request, the petitioner was given the opportunity to have her treating physician comment specifically upon the discharge summary. On October 2, 1989, the treating physician submitted the following letter:

Specifically, the area of concern here seems to be [petitioner's] admission in January of 1989 here at Copley Hospital with an acute myocardial infarction. She was, in fact, admitted with a myocardial infarction and approximately 36 hours later suffered a Code 99, which she was resuscitated from. From that point on, she remained hypotensive and was on pressor agents and was transferred to the Medical Center for early catheterization. The early catheterization showed large tortuous coronary arteries without significant lesions and minor proximal LAD irregularities and a normal left ventricular function. Because of a problem with persistent fairly high grade ventricular ectopy,

she was then started on Mexiletine. On her discharge summary from the Medical Center Hospital, the two areas of key interest are that they state she may resume work tomorrow with no restrictions on physical activity. I certainly feel that at the time of her discharge from the Medical Center, [petitioner] was not able to perform any type of serious strenuous activity. She could ambulate without too much difficulty, although she was still having problems with exertional dyspnea at that time. In addition, she was only three weeks out from myocardial infarction and had not yet been through any type of rehabilitation program, and I don't feel that we really fully knew how much activity she could tolerate. It is most likely that she could have resumed some light housework activity fairly soon after her discharge from the hospital, but I think that to expect any person who has been basically bed bound for three weeks, even without an MI, to resume strenuous activity the day after discharge is unreasonable. I have a feeling that her discharge instructions were more to increase her activity as tolerated, and she could begin doing that soon after discharge. As far as restrictions for physical activity, indeed there were none. However, this needs to be worked up to, and certainly she was not going to walk out of the hospital and start loading her wood shed. In 7-89, [petitioner] was admitted to Copley again for approximately three days when she developed significant chest pain, nausea, diaphoresis and weakness very similar to her symptoms with her original MI. She did, in fact, rule out for myocardial infarction. This again demonstrates the nature of her ongoing atherosclerotic cardiovascular disease. She has done well since that time but is on a fair amount of medication including Metoprolol 25 Mg. twice a day, Mexiletine 50 mg. three times a day, Lasix 40 mg. a day, Ranitidine, Sucralfate, Halcion and Folate.

In summary, then, I feel that at the time [petitioner] was discharged from the Medical Center Hospital, she was not able to do any significant strenuous work, and, indeed, it was several weeks to two months before she could perform all of her household chores including shopping and other activities of daily living. Presently, she is doing well, and perhaps with some retraining could perform some light duty work. However, this has not been available to her at this time.

Based on all the above-cited evidence, it is found that the petitioner, since January 6, 1989, has been unable to perform her past work and any other gainful activity that

requires exertion greater than sedentary work¹ performed on a half-time basis. Under the regulations (see below) this is sufficient to conclude 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.

The regulations also provide that an individual of the petitioner's age, education, and work experience, who cannot perform her past work, and who is limited to "sedentary work",² is considered disabled. 20 C.F.R. § 404, Subpart P, Appendix II, Rule 201.09. Since the petitioner's residual functional capacity is for far less than full-time sedentary work (see above), she must be found to be disabled--as of January, 1989. The department's decision is, therefore, reversed.

FOOTNOTES

¹As defined by 20 C.F.R. § 416.967(a).

2Id.

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