

perianal problems. In a June, 1991, note, the petitioner's treating physician stated that while the petitioner's fibrositis was a painful condition, it was expected to improve with medication--and that that should also improve her sleeping pattern.

In August, 1991, the petitioner underwent a comprehensive consultative psychological examination. She was found to have significant "depression with features of anxiety". The primary cause of her depression, however, was found to be her "chronic pain" and her "inability to work".

At her hearing, held on December 5, 1991, the petitioner appeared pro se. Unfortunately, she did not have an updated report from her treating physician, but she testified that her fibrositis has not responded to medication. She stated that she continues to have pain all over her body and that she feels tired and weak all the time. She also stated that she has little strength in her arms and hands and has great difficulty performing even simple manual tasks. Although surgery for her carpal tunnel syndrome has been recommended, she cannot afford it.

The petitioner struck the hearing officer as sincere and credible. If anything, it appears she pushes herself to the limits of her physical and psychological endurance. Even with surgery, it appears highly unlikely that within a

year (i.e., by May, 1992) the petitioner will be able to perform any gainful employment on a regular and sustained basis.

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 this case, the petitioner's complaints of pain, weakness, stress, and sleeplessness, are fully credible and supported by the medical evidence. It is, therefore, concluded that she meets both the severity and durational aspects of the above definition.¹ The Department's decision is reversed.

FOOTNOTES

¹Even if surgery and medication were to suddenly bring about an improvement in the petitioner's condition, it is highly unlikely that she will ever be able to perform more than "sedentary" work. See 20 C.F.R. §§ 416.967 and 404, Subpart P, Appendix II, Rule 201.10.

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