

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,377
)
Appeal of)

INTRODUCTION

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

FINDINGS OF FACT

The petitioner is a thirty-seven-year-old woman with one year of post-secondary education. She has had a variety of jobs, including managing a general store. She has not worked at all, however, since last April, when she left a part-time job as a cashier at a ski area snack bar.

The medical record shows that the petitioner has a history of complaints of back pain. However, as of April, 1992, it was noted that this problem was "showing marked improvement". The more significant problem for the petitioner at this time is anxiety and depression. Apparently, the petitioner was seeing a therapist regularly until April, 1992, when she could no longer afford it. In a note dated April 7, 1992, the therapist wrote:

I would like to express concern over [petitioner] no longer having medical coverage.

She suffers from sever major depression for which she requires two kinds of medication and weekly psychotherapy. She is also under Doctor [name]'s medical care, as well. She has no financial means to pay for her treatment. Without the treatment she would most likely end up back on the Human Services Unit and/or completely incapacitated.

Would it be possible for you to reconsider the decision about her carrying Medicaid?

In June, 1992, the petitioner underwent a consultative psychiatric examination, the report of which concluded with the following findings and conclusions:

EVALUATION FINDINGS

MSE. The mental status examination revealed [petitioner] to be oriented to person, place, and time. As previously mentioned, the client was dressed casually and her personal hygiene and grooming were adequate. No unusual motoric activity was noted in this woman. Although she did not demonstrate any atypical speech amplitude, the client was very talkative. Overall, [petitioner] presented as a moderately tense and dysphoric individual. However, she did attempt to be cheerful.

The client self-reported a high level of anxiety and a moderate to moderately high level of depression as well. As previously stated, she has experienced both anxiety and depression since March of 1991. Assessment of neurovegetative signs revealed a prior problem with sleep onset and maintenance. However, [petitioner] said that she has been prescribed a medication to help with sleep. She gave the name of this medication as Temazepam (30 mg, h.s.). [Petitioner] said that her appetite is adequate. She did report some difficulty with attention and concentration and said that her memory is poor. There was no clear indication of anhedonia. No suggestion of a perceptual disturbance (e.g., illusions, hallucinations) was given. With respect to thought content, the client said that she ruminates about her problems and about wanting to get her daughter back. There was no indication of compulsive behavior, derealization or depersonalization experiences, or ideas of reference and/or influence.

[Petitioner] said that she is very anxious and worries intensely about her daughter being killed. When asked to explain this statement, she said that her daughter's father abuses alcohol and she worries that her child

will be killed when riding in a car that he is driving. The client reported that she had near suicide attempt one time. This occurred when she was residing with her boyfriend and he was abusing her physically. The client said that she did not follow through on this attempt because she thought of a friend who was in need of her support. Intense feelings of uselessness and worthlessness were reported by [petitioner].

Assessment of basic language functions revealed that the client could name to confrontation, repeat a simple phrase, follow a three stage command, and read and comprehend a simple sentence. She was also able to compose and write a sentence and her performance at copying a three dimensional design was good. Simple verbal reasoning was good and verbal abstraction was adequate. Overall, this woman presented as an individual of average intelligence.

CONCLUSIONS AND RECOMMENDATIONS

The above findings indicate that this woman is experiencing a mood disorder, and an anxiety disorder with symptoms of panic.

The following DMIII-R diagnostic configuration is suggested by the current data:

AXIS I	311.00	Depressive disorder, not otherwise specified.
	300.00	Anxiety disorder, not otherwise specified (with symptoms of panic).
AXIS II	V71.09	No diagnosis on Axis II.
AXIS III		Not assessed.
AXIS IV	3-4	Severity of psychosocial stress - moderate to severe.
AXIS V		Global assessment of functioning scale (GAF) Current, 60. Highest, 60.

Should any funds be awarded to this woman, I feel that she would be able adequately manage them.

The most recent reports are from the petitioner's treating physician (the one referred to in the report [supra] from the petitioner's therapist). On a GA form dated September 9, 1992, the physician noted that the

petitioner would be unable to work full-time at any job for one year due to "Mod (sic) Severe Anxiety/Depression". And, in a separate note of the same date, he wrote:

[Petitioner] continues to be disabled due to anxiety/depression. Her need for medication continues. She would benefit from psychotherapy but cannot afford it.

Based on the above reports, which are consistent with each other and uncontroverted by any other evidence, it is found that since April, 1992, the petitioner has been unable to perform any substantial gainful activity due to the severity of her psychological problems, and that her disability is expected to last for at least one year.

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.

As noted above, uncontroverted evidence from several treating medical sources establishes that the petitioner meets the above definition. The Department's decision is,

therefore, reversed.

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