

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,370

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Appeal of)

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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 a twenty-five-year-old man with a twelfth grade education, but with a limited ability to read and write. Until June, 1993, he was employed as a farm laborer.

In June, 1993, the petitioner developed pain and swelling in his feet. To date, despite laboratory tests and a neurological evaluation, his condition has escaped diagnosis. The medical evidence from various doctors describes the condition as painful swelling and redness in both feet.

A residual functional capacity assessment form submitted by the petitioner's primary treating physician at the request of the hearing officer (with the consent of both parties)⁽¹⁾ states that the petitioner's "persistently painful feet" would prevent the petitioner from being "up on his feet a lot". However, the treating physician indicated that sitting and upper body movement would not be restricted. The physician also noted that the etiology of the condition remained unknown, and that he couldn't predict how long the petitioner's symptoms would be likely to last.

Based on the above, which is consistent with all the other medical evidence of record, it is found that the petitioner cannot, at present, return to his former work; but that he retains the residual functional capacity to perform a full range of unskilled sedentary work. Under the regulations (see infra) this dictates the conclusion that the petitioner, considering his young age, is not disabled.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual Section M 211.2 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.

Under the Medical-Vocational Guidelines that are contained in the regulations an individual of the petitioner's age, regardless of his education and work experience, must be found "not disabled" if he retains the residual functional capacity for a full range of sedentary work. 20 C.F.R. § 404, Subpart P, Appendix II, Rule Nos. 201.23 et seq.

At the hearing in this matter, the above rules were explained to the petitioner; and he was advised to apply to Vocational Rehabilitation for services that might help him obtain employment that could accommodate his physical limitations. The petitioner was also advised of the availability of general assistance for certain emergency needs, including medical.

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1. See Fair Hearing Rule No. 7. Another doctor who the petitioner said he had seen did not respond to the hearing officer's request for information.