

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,507

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare finding that she is not eligible for Medicaid benefits. The issue is whether the petitioner is disabled as that term is defined in the regulations.

FINDINGS OF FACT

1. The petitioner is a twenty-one year old woman with a high school diploma. She has worked since high school, primarily as a waitress or cashier.
2. The petitioner has a mild form of cystic fibrosis. She has usually been able to work with this condition although she has experienced acute exacerbations of her symptoms which have forced her out of work for long periods of time, the most recent being a five-month hiatus from April to August of 1992.
3. The petitioner is currently working full-time (thirty-nine hours per week) as a cashier in a bottle redemption store. She has worked off and on at this job since 1991, and most recently returned to it in July of 1993. Her illness forces her to miss about a day of work per month which does not jeopardize her employment. She earns about \$165.00 per week but has no health benefits. The petitioner does not claim that she is unable to work.
4. In August of 1993, the petitioner applied for Medicaid because she does not have health insurance and has doctor's bills which she cannot afford to pay. Her prescription medication costs about \$1,000.00 per month, and she has doctor's appointments about two times per month. Her medications have been paid through the Cystic Fibrosis Foundation which runs clinics for its members. The petitioner has recently been notified that because she is a Vermont resident, she needs to change to a clinic in Burlington or Bethel to receive continued Foundation benefits. However, she wishes to continue seeing her long-time doctor at the clinic in Hanover, New Hampshire. This change has prompted her to investigate her eligibility for Medicaid. She has not yet asked her doctor or New Hampshire social worker to see whether an exception could be made to allow her to continue to go to the clinic in New Hampshire.

5. In support of her application, the petitioner's treating physician stated:

She has cystic fibrosis. This is a chronic illness which tends to worsen with time. She needs medications and frequent medical care to avoid problems and complications. While she may not be disabled or fit the criteria for Medicaid I feel she should receive financial support in caring for her illness. If she does not receive good care now she will become disabled and meet disability standards. It is better to treat her now and try to avoid this situation.

ORDER

The Department's decision is affirmed.

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 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 petitioner agrees that she is able to engage in substantial gainful activity and in fact does so. She asserts, no doubt correctly, that she would be unable to work if she could not get medication. It appears at present that she is being supplied with her medical care and prescription medications by a private foundation. Because she does not meet the criteria for Medicaid, she was properly declared to be ineligible. The petitioner should be aware that if she is unable to pay for her medical care any other way, she can apply for General Assistance and have a determination made under the emergency medical care provisions.

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