

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,542

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Appeal of )

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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 fifty-six-year-old woman with a high school education and several credits, earned recently, toward a college degree. She has worked over the last fifteen years as an office manager, a bookkeeper, and an administrative assistant. She has not worked since October, 1992.

There is no indication that the petitioner had any significant health problems prior to the summer of 1993. During that summer the petitioner began experiencing chest pain, mostly upon exertion. In August, 1993, she underwent a single coronary bypass operation. In November, 1993, her doctor noted that she was still experiencing some chest pain when she exerted herself. Shortly thereafter, the petitioner enrolled in a rehabilitation therapy program.

The last narrative report in her file from one of her treating physicians, dated December 23, 1993, noted that the petitioner felt better and that the doctor was "delighted" with her progress and had given her "the green light to go ahead and take some courses in college, which I think can only enhance her outlook on life".

The most recent medical evidence is a physical therapy discharge summary, dated March 21, 1994, which noted that the petitioner had "occasional angina; resolves with rest". The petitioner's "follow-up plans" noted: "walking daily; plans to join local health club facility for swimming and exercise equipment".

The hearing in this matter was postponed several months for the petitioner to obtain legal representation and further medical evidence. A legal representative entered an appearance in the matter but later withdrew. At the hearing, held on October 24, 1994, the petitioner indicated that she had no further evidence to submit, and admitted that her doctors did not think she was disabled. When the hearing officer explained the legal requirements to establish eligibility for medicaid the petitioner abruptly left

the hearing before any testimony could be taken.

Based on the medical evidence it is found that the petitioner was not precluded from returning to either her past work or any other sedentary work for any consecutive twelve month period.

#### 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.

In this case the medical evidence does not establish that the petitioner--a well-educated woman with a skilled or semi-skilled work history of bookkeeping, office management, and administrative assistant--was unable for a consecutive twelve-month period to return to any of her past jobs or perform a wide variety of other sedentary work. Therefore, the definition of disability is not met and the Department's decision must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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