STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,960

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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

1. The petitioner is a twenty-seven-year-old woman who has completed three years of college. She last worked in September of 1994 as a worker on an organic farm. She has a sparse work history before that, primarily summer jobs.

2. Since September of 1994, the petitioner has experienced a number of problems including dysmenorrhea, intestinal parasites, pneumonia, low level depression, anxiety and chronic fatigue syndrome. She has received some medical attention for these problems but has also participated in several forms of nutritional and alternative therapies.

3. A letter from her doctor dated July 6, 1995, supports the petitioner's contention that her complex of problems has caused her to have decreased energy and ability to concentrate on complex problems as well as an inability to withstand physical strains involved in heavy lifting, or longterm standing or walking.

4. However, the petitioner's activities during the last two years indicate that her mental restrictions are not significant enough to interfere with most functioning needed to work as she has been able to attend a paralegal college on a full time basis for up to six months at a time and has recently done administrative work for both a friend and her college on a part-time basis over the last winter.

5. In May of 1996, her physician reported:

[Petitioner] has been suffering from chronic fatigue, which has been improving, and multiple chemical

sensitivities, which has been worsening.

At the present time, she is unable to work in typical office environments, due to sensitivities to chemical fumes which are typically present in those situations. At this time, she feels that she can work out of her home. I am unable to predict how long she will remain disabled in this way. I do not have exact information regarding the duration of her disability.

6. Based on the above medical evidence it can be concluded that the petitioner is limited to sedentary work. However, it cannot be concluded that the petitioner's mental restrictions significantly impact on her ability to perform work nor that her environmental restrictions are expected to disable her for a one year period.

ORDER

The decision of the Department 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 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 exist 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 evidence shows that the petitioner is physically capable of only sedentary work due to chronic fatigue syndrome. However, her other impairments cannot be found to be significant (mental) or expected to last for twelve months (environmental). Under the medical-vocational guidelines, a twenty-nine year old person (defined as a "younger individual") whose education is high school graduate or better and who is able to do only sedentary work, is categorized as not disabled. 20 C.F.R. § 404 Subpart P, Appendix II, Rules 201.27-29. The petitioner's youth and high level of education are significant factors in her ability to obtain and accommodate to a new job situation which might have less strenuous physical requirements than her past work. The petitioner has already shown that she can do significant mental labor through her schooling and part-time work projects. Therefore, she cannot be determined to be disabled from all employment.

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