

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,181

)

Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare finding that he is not disabled for purposes of the Medicaid program.

FINDINGS OF FACT

1. The petitioner is a thirty-year-old man who is a high school graduate. His usual occupation is as a ski lift operator and trail cutter at a ski area. He has also worked as a carpenter.
2. Until early August of 1995, the petitioner received Medicaid as a member of his girlfriend's household. After he left her household, he was notified that his Medicaid would cease and his eligibility was redetermined under disability rules after which he was declared ineligible as of November 3, 1995.
3. The petitioner claims that his disability began in August of 1995, when he became depressed over breaking up with his girlfriend and his inability to see their child on a regular basis. He was hospitalized and was unable to work until mid-October when he returned to his ski job. He earned \$6 per hour at that employment until he was seasonally laid-off last month. Working was difficult for him at first although he still managed to work forty hour weeks. During those months he gradually improved and does not feel deeply depressed now.
4. The medical evidence shows that the petitioner was treated for drug and alcohol abuse as well as agitated depression aggravated by Prozac during the period from August 15, 1995 through September of 1995. It was noted that he had addictions to nicotine and cannabis which may have contributed to fainting spells and seizure-like activity. In September of 1995 he was observed picking off lesions on his skin under the delusion that he had parasitosis. He was recommended a 28 day detoxification program which he refused. He was observed to be suffering from weight loss, anhedonia, energy decrease and feelings of hopelessness.
5. Based on these problems, DDS found that the petitioner was moderately limited with regard to pace, concentration and persistence. The petitioner disputes this finding as too optimistic. He says he was

unable to do anything but sleep and stay in bed all day during those two months, a contention that seems more probable in light of the medical evidence.

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 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, although the petitioner experienced severe medical problems from mid- August to mid-October of 1995, neither the medical evidence nor the petitioner's testimony establishes that there existed any continuous twelve-month period of disability within the meaning of the above definition. Therefore, the Department's decision is affirmed.

###