

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,431
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) 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 forty-three-year-old woman with eight grades of education and what appear to be no more than basic literacy skills. She has a medical history of anxiety and depression, which appears to stem mainly from domestic problems. Presently her primary physical problems are arthritis in her knees and back pain stemming from a car accident in March 2002. She takes medication for her depression that is prescribed by her family physician.

2. The petitioner received RUFA and Medicaid for several years when her children were under 18. When her RUFA

benefits ended she applied for Medicaid in February 2003 on the basis of disability.

3. This hearing was continued for over one year to allow the petitioner time to submit opinions from any of her health care providers and any other additional medical evidence of her disability. As of July 13, 2004, the petitioner reported no success in this regard.¹

4. The petitioner reports that she has not worked since 2002. Her work history appears to have been primarily as a housecleaner. It appears that while she was on RUFA she worked as a volunteer for five years as a housekeeper at a senior center. In a report dated January 2003 this employer described the petitioner as a reliable and capable worker. There is no indication that this employer made any accommodation for the petitioner in terms of hours or working conditions.

5. The only medical records in the petitioner's file relating to her depression and anxiety are the reports of sessions she had with various mental health providers between

¹ In April 2004, the petitioner notified the hearing officer that she was being represented by an attorney in a concurrent SSI appeal. Despite being notified of the most recent hearing dates in this matter, this attorney never filed an appearance in her Medicaid appeal and no additional medical evidence was ever submitted in the petitioner's behalf following the date of her appeal in April 2003.

2000 and 2003. Nothing in these notes commented on the petitioner's ability to work.

6. Various records document the presence of moderate arthritis in the petitioner's back and knees. Again, however, there is no indication in the medical record that her physical problems would not allow her to perform at least sedentary work.

ORDER

The decision of the Department is affirmed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

The disability of an individual 18 or older is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, that can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than 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 regulations define "substantial gainful activity" as work done for pay that involves significant mental and

physical activities, even if done part time. W.A.M. § M211.21, 20 C.F.R. § 416.972.

Although the petitioner's most recent past work appears to have been on a volunteer basis, there is no indication that her problems with anxiety or depression interfered with her ability to perform this work. The medical evidence of her physical impairments does not indicate that she would be prevented from performing at least sedentary work. Under the federal regulations a person of the petitioner's age, education, and work experience would be found not disabled even if she were limited to solely sedentary work. 20 C.F.R., Subpart P, Appendix 2, Rule 201.18 et seq.

If the petitioner is able to present any updated medical evidence or opinion that she is unable to work she is free to reapply for Medicaid.² Based on the evidence of record at this time, however, it must be concluded that the Department's decision is in accord with the pertinent regulations.³ Thus,

² At the petitioner's request, a copy of this decision is being sent to the attorney who the petitioner says is representing her in her SSI appeal.

³ The petitioner would be well advised to consult with the Division of Vocational Rehabilitation for an assessment and perhaps training in obtaining a job suitable to her medical limitations.

the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#