

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,053
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his 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 forty-eight-year-old man. He has a seventh-grade education but cannot read or write. However, he has worked successfully for many years as a self-employed logger.

In June 1990, the petitioner was hospitalized for chest pains. Testing revealed blocked arteries, and on July 27, 1990, the petitioner underwent "myocardial revascularization" surgery. The surgery appears to have been successful.

The petitioner worked until he was hospitalized in June, and his doctors have cleared him to return to his past work as of February 1991. Thus, the twelve-month durational requirement for disability (see below) is not met.

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 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.

As noted above, the petitioner's doctors have indicated that he can return to his past work (logging) as of February 1991. The petitioner is saddled with the medical bills from his surgery and is apprehensive about returning to heavy work in the winter months. Even if it could be found that heavy work is precluded, however, the petitioner would have to be found "not disabled" even if he was limited to light work.¹ See 20 C.F.R. § 404, Subpart P. Appendix II, Rule 202.16. Nothing in the evidence indicates that the petitioner would be unable to perform work at this exertional level.

Inasmuch as the petitioner will not be disabled for twelve consecutive months, it must be concluded that he does not meet the above definition of disability.² The Department's decision is, therefore, affirmed.

FOOTNOTES

¹"Light work" is defined at 20 C.F.R. § 416.967(b) as "lifting no more than twenty pounds at a time with frequent lifting or carrying of objects weighing up to ten pounds."

²The petitioner was advised as to his potential eligibility for general assistance (G.A.) if an emergency medical need developed before he could return to work. Also, the hearing officer discussed with the petitioner the availability of vocational rehabilitation services if the petitioner elects or is forced to consider obtaining training for less strenuous employment.

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