

of power in his arm he cannot climb ladders, ropes or scaffolds and is unable to perform any of his former jobs. He experiences only occasional pain and muscle stiffness related to this problem.

3. The petitioner also suffers from some esophageal dysmotility (a nervous upset stomach) for which he is under a doctor's care and is controlled with medication. That problem poses no significant limitation for him.

4. The Department presented expert testimony that a relatively young (twenty-five-year-old) and well-educated (high school or more) person whose only impairment is a weakened left arm has the residual functional capacity to engage in a number of jobs available in the national and local economy. Examples of occupations available to such a person are sales positions, dispatcher positions and inspecting and testing positions. Within the sales area alone, there are at least three types of employers--motor vehicle, apparel, and home furnishings retailers--which do not require lifting or stocking of heavy items and which requires no more than a high school diploma for entry level employment. There are roughly 300 of these jobs alone in the Vermont area. There are at least 300-400 jobs available in the other two job categories, or dispatcher and inspector, which also require no further education for entry level jobs and which do not require use of the left arm for lifting over two pounds.

5. It is concluded based on the above evidence that although the petitioner is unable to perform his prior jobs, there is a significant number of jobs available in both the national and local economy which the petitioner has the residual functional capacity to perform.

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.

The petitioner has met his burden of proving that because of a medical impairment he can no longer perform any of his prior jobs which required use of his left arm to lift objects weighing more than two pounds. The burden thus shifts to the Department to show that the petitioner has the residual functional capacity to do other work considering his age, education and work experience. 20

C.F.R. § 416.961

The Department has met that burden by showing that

there is a significant number of jobs in the regional economy which have requirements which the petitioner can meet both physically and vocationally. As such, it must be determined that the petitioner is not "disabled" under the Social Security definition, 20 C.F.R. § 416.966(b), and is thus not eligible for Medicaid.

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