

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 8795  
 )  
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

1. The petitioner is a 59 year old man with an eighth grade education.

2. Prior to May of 1988, the petitioner worked full-time as a janitor. His work involved no climbing, no temperature extremes and maximum lifting and carrying of up to 25 pounds.

3. On May 23, 1988, the petitioner was admitted to the hospital with chest pains. It was determined that he probably had suffered a "small, nontransmural, non-Q wave myocardial infarction" (a "heart attack").

4. Because the petitioner had chest pain and testing showed that he had only fair exercise tolerance, and a possibility of ischemic heart disease, his treating physician advised him not to return to work and to rest and exercise lightly until he had fully recovered.

5. The petitioner's condition gradually improved and on November 14, 1988, with his doctor's permission, the petitioner returned on a part-time basis to his job. On January 3, 1989, the petitioner returned full-time to his employment with his doctor's approval.

6. The petitioner had no health insurance at the time of his heart attack and incurred over \$20,000 worth of medical bills.

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.

While the petitioner's physical impairment prevented him from engaging in any substantial gainful employment for a time, the petitioner's return to work full-time seven months after the date his disability began falls five months short of the twelve month duration requirement set out in the regulatory definition. Therefore, it must be found that the petitioner does not meet the eligibility

requirements for Medicaid, which is a program designed to cover long term disability. At hearing, the petitioner was advised of his potential eligibility for General Assistance for medications (he already has been considerably assisted by this program), and advised to inquire at his hospital about programs covering hospital bills for low-income persons.

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