
R.R. v. Hudson County, Division of Welfare
Cite as 2 *N.J.A.R.* 228

R.R.,
Petitioner,
v.
HUDSON COUNTY
DIVISION OF WELFARE,
Respondent.

Decided December 7, 1979

Initial Decision

SYNOPSIS

A Medical Review Team determined that petitioner was ineligible to receive assistance as an incapacitated father under Aid to Families with Dependent Children (AFDC) - C segment.

The administrative law judge determined that, where, despite continuing physical complaints, there has been no objective medical evidence submitted to establish the existence of an impairment of sufficient severity to meet the criteria for incapacity, the action denying eligibility is affirmed.

ROBBINS, ALJ:

The Medical Review Team (MRT), disapproved petitioner's incapacity status, pursuant to *N.J.A.C.* 10:81-2.7(c). The matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to *N.J.S.A.* 52:14F-1 *et seq.*

A hearing was requested on October 12, 1979. After notice to all parties, a hearing was held on November 14, 1979, in the North Bergen Municipal Court, North Bergen, New Jersey, before Administrative Law Judge Frances Robbins.

At issue is the determination by the MRT, finding petitioner medically ineligible to receive assistance as an incapacitated father, under the program of Aid to Families With Dependent Children (AFDC) - C segment. The relevant regulation *N.J.A.C.* 10:81-2.7(c) provides that:

physical or mental incapacity of a parent shall be deemed to exist when both parents are in the home and one has a physical or mental defect, illness or impairment. The incapacity shall be supported by competent medical testimony and must be of such a nature as to reduce substantially or eliminate the parent's ability to support or care for the eligible child and be expected to last for at least thirty days.

Petitioner is a 39-year-old man who lives with his spouse and their young

child. The family has been receiving assistance under the program of AFDC-F since November 1978. When petitioner reported, in May 1979, that he was too ill to work, an application for AFDC-C was initiated.

The medical evidence submitted to the MRT includes a note from the Jackson Avenue Medical Center, dated May 8, 1979, stating that petitioner "is unable to work at the present time until seen and cleared by the dentist and eye doctor." Petitioner was referred for dental care and for an eye examination. On June 8, 1979, his dental care was completed. The eye examination indicated 20/20 vision in one eye and impaired vision in the other eye. The medical report from his physician indicates that petitioner could return to work in less than two months after his eye and dental problems are taken care of.

Mrs. Wasilewski, Medical Social Worker Consultant of the Bureau of Medical Affairs, stated that petitioner's dental care, which required extraction of teeth, was not a physical condition serious enough to preclude employment for over 30 days and his vision is not sufficiently impaired to preclude gainful employment. Based on this evaluation, in addition to the physician's statement that on May 18, 1979, petitioner could return to work within a period of less than two months, petitioner's incapacity status was disapproved.

Petitioner testified that he suffers from headaches and dizzy spells. It was thought that this condition was a result of his dental and ophthalmological problems, but in spite of the treatment he has received, petitioner continues to suffer with these physical problems.

As petitioner continues to have ongoing medical problems, it was suggested by Mrs. Wasilewski that the agency arrange for further medical evaluation of petitioner's condition and submit any new medical evidence to the MRT for further evaluation under a reapplication for AFDC-C. The agency and petitioner agreed to follow this advice.

Based upon the foregoing, **IFIND:**

1. Petitioner and his family are currently receiving assistance under the AFDC-F program.

2. The medical information submitted for evaluation to the MRT indicated that petitioner would be able to return to any type of employment within a period of two months subsequent to May 18, 1979.

3. At the time of the MRT determination on July 23, 1979, there was no medical evidence available to establish the existence of an impairment of sufficient severity to meet the criteria for incapacity, as established in regulations.

4. Although petitioner has ongoing physical complaints, there has been no objective medical evidence submitted to substantiate this fact. It has been

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recommended that a reapplication be submitted with additional medical information, so that further evaluation can be made.

Based upon the facts adduced at the hearing in this proceeding and the applicable regulations, I **CONCLUDE**, pursuant to *N.J.A.C.* 10:81-2.7(c), that based on the medical information submitted, the petitioner does not have an impairment of sufficient severity to preclude gainful employment.

Therefore, the action of the MRT in denying eligibility for classification as an incapacitated father under the program of AFDC-C is **AFFIRMED**.

After reviewing this Initial Decision,
the Director of the Division of Public Welfare,
on January 4, 1980, issued this Final Decision:

The Initial Decision in the case of the above captioned is accepted and incorporated herein.

The action, disapproving petitioner's claim for AFDC benefits based on incapacity, is **AFFIRMED**.