

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. N-01/21-008  
 )  
Appeal of )  
 )

INTRODUCTION

Petitioner requests review of purported inaction by the Economic Services Division of the Department for Children and Families (Department) regarding his housing case management services. The following facts are adduced from a telephone expedited hearing held on January 12, 2021. The preliminary issue is the Board's jurisdiction when petitioner has failed to state a claim upon which relief can be granted.

FINDINGS OF FACT

1. Petitioner and his son have been housed in an area motel by the Department for some time.
2. When he initially filed his fair hearing request petitioner had indicated that he was appealing the Department's decision that he self-pay for two (2) days in November 2020. However, at hearing petitioner stated that he agreed with the Department's suggested resolution of that

issue and was no longer appealing on that point<sup>1</sup>. Rather petitioner stated that his current appeal was based on the inaction of his Northeast Kingdom Community Action caseworker in assisting him and his son in finding permanent housing. He cited missed meetings by the caseworker and inattention to his case.

3. The Department indicated that while it does require that individuals participate in case management services to further the goal of locating permanent housing as a condition of accepting temporary housing through the Department, it does not have any control over the case management services provide by the area Community Action agency. The Department has granted petitioner and his son temporary housing for some time and has not otherwise issued a decision that is adverse to petitioner.

ORDER

Petitioner's appeal is dismissed.

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<sup>1</sup>The Department, while not conceding that the decision that petitioner was required to self-house based on non-compliance was incorrect, offered to resolve the issue by crediting petitioner with two (2) days of housing in the case management system for future needs. Petitioner stated that he accepted that resolution.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

In this case, there is a threshold question of whether the Board has the power to grant any relief to petitioner because he has failed to identify any action by the Department that has had an adverse impact on him. The evidence is that the Department has assisted and continues to assist petitioner by providing temporary housing. See COVID-19: Extended Housing Supports for Vulnerable, Homeless Vermonters. <https://dcf.vermont.gov/dcf-blog/covid19-housing-supports>

The statute governing Human Services Board appeals provides:

An applicant for or recipient of assistance, benefits or social services from the Department for Children and Families . . . may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing will be granted to any individual requesting a fair hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits or services . . . or

because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. § 3091(a).

Petitioner has failed to present a claim that would entitle him to relief, therefore the Board lacks jurisdiction to issue a substantive decision in the appeal. For the above reasons, petitioner's appeal must be dismissed as beyond the jurisdiction of the Board. See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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