

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-11/21-699
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Appeal of)
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INTRODUCTION

Petitioner appeals a denial of temporary housing by decision of the Vermont Department for Children and Families ("Department"). The following is based upon an expedited telephone hearing held December 3, 2021. The primary issue is petitioner's claim that he is entitled to a shelter exemption.

FINDINGS OF FACT

1. Petitioner is homeless and prior to this appeal had been housed for a period of time by the General Assistance ("GA") emergency housing program.

2. On November 8, 2021, petitioner reapplied for emergency housing. At that time, he was informed by a Department worker that a nearby shelter bed was available. However, petitioner refused to go to the shelter and instead insisted he should be eligible for a motel room through the emergency housing program. Based on this refusal, petitioner was disqualified for 30 days (from November 8, 2021) because

he had refused available shelter space. This appeal followed.

3. At hearing, petitioner did not dispute his refusal of shelter space. However, he argued that a letter from his physician, which had already been provided to the Department, established that he was entitled to an exemption from the requirement to accept available shelter space. This letter was dated October 6, 2021, and provides as follows (in pertinent part):

To Whom It May Concern:

I saw [petitioner] today for an injury sustained to the right thumb MCP joint resulting in subluxation and tear of the radial collateral ligament. The patient is treated with casting x 6 weeks and during this treatment period and up to 12 weeks out from his injury he will require shelter and housing to ensure healing. If you have any questions or concerns please contact me at the phone number above.

4. The letter does not specify that petitioner's medical needs could not be met in a shelter setting, nor is there any evidence that - to the extent petitioner may need special accommodations for his injury - that a shelter could not accommodate him. The letter from petitioner's physician does not, in any event, make any recommendations for specific accommodations that petitioner may need in any given type of housing situation. There is no other evidence or information

in the record supporting petitioner's refusal of available shelter space.

5. As such, the preponderance of evidence does not establish that petitioner is eligible for an exemption from the Department's requirement to accept available shelter space as a pre-condition of eligibility for emergency housing.

6. As explained to petitioner at hearing, there is nothing to prevent petitioner from submitting new information from his physician regarding his need for a shelter exemption.

ORDER

The Department's decision is affirmed.

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 1000.3.0.4.¹

¹ Although petitioner's disqualification has ended, and is arguably moot, it is appropriate for the Board to consider his appeal because of the underlying issue of whether the information he submitted to the Department warrants a shelter exemption, given that petitioner is homeless and indicated he would reapply for housing in the future and thus could reasonably expect to be referred to a shelter again.

On August 11, 2020, the Department promulgated a comprehensive policy to govern the administration of the "motel voucher program" during the Covid-19 pandemic. This policy has been amended from time-to-time since August 2020, most recently as of November 4, 2021. In addition, as of November 18, 2021, the Department established an "adverse weather conditions" policy which expands eligibility for emergency housing through March 1, 2022, due to the onset of winter in Vermont. The emergency housing rules contain a provision for disqualification of an applicant who refuses available shelter space:

You will not be eligible for a motel voucher if in the last 30 days:

- *You did not accept an available shelter space when offered;* OR
- You were asked to leave a shelter for not following the rules of the shelter.

If your disability was a factor in being asked to leave the shelter, you may request a reasonable accommodation to not apply this rule. Otherwise, having a disability does not prevent the application of this rule.

If you request a reasonable accommodation, it will be reviewed by the General Assistance Team, and a written decision will be issued by the Deputy Commissioner of the Economic Services Division.

Emergency Housing ("EH") Rules § EH-725.1 (emphasis added).²

The rules further provide that:

The Department will not house you in a motel if space is available in a shelter. *The Department will let you know if shelter space is available when you apply.*

If you have a physical or mental disability:

- Your local shelter may be able to make special arrangements to help you stay there. This is called a reasonable accommodation.
- Your ESD worker can help you talk to your local shelter about your need for an accommodation.

If your local shelter can't make a reasonable accommodation so the shelter is accessible to you:

- Please ask the Department for a reasonable accommodation.
- If approved and you meet other requirements, a motel voucher will be provided.

Emergency Housing ("EH") Rules § EH-725 (emphasis in original).

Likewise, the Department's adverse weather conditions policy provides that:

If a household applying for temporary housing under AWC refused available shelter space and has not requested and received a reasonable accommodation (form 218M), the household will be ineligible for further temporary housing for a period of 30 days beginning with the date the applicant refused available shelter space, absent good cause.

² <https://dcf.vermont.gov/sites/dcf/files/CVD19/ESD/Emergency-Housing-Rules-11.04.21.pdf>.

General Assistance Housing Adverse Weather Conditions (AWC) for the 2021-22 Season.³

The evidence does not support petitioner's request for an exception from the requirement in the rules or AWC policy to accept available shelter space. As such, the Department's decision is consistent with the rules and must be affirmed. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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³ <https://dcf.vermont.gov/sites/dcf/files/ESD/Docs/EA/AWC-Memo-Nov22-March1.pdf>.