

HUMAN SERVICES BOARD

INTRODUCTION

Petitioner is a recipient of Emergency Housing, a General Assistance ("GA") program administered by the Economic Services Division of the Department for Children and Families ("Department"). He has made numerous complaints against various motels in which he has resided, as well as complaints regarding motels at which the Department has approved a stay, but petitioner has declined or otherwise failed to check into. For the purposes of procedural economy, petitioner's appeals in T-04/22-220 and T-04/22-241 have been consolidated. In both cases, the main issue is the jurisdiction of the Human Services Board ("Board") when petitioner has failed to state a claim upon which relief can be granted and the Department has not denied or reduced a benefit to petitioner, who remains eligible for the Emergency Housing program.

FINDINGS OF FACT

1. Petitioner's appeal in Fair Hearing No. T-04/22-220 was filed on April 20, 2022, and was scheduled for hearing on April 29, 2022, by telephone. At the time, petitioner had been exited from his most recent motel placement although the Department had determined that he remained eligible for Emergency Housing (i.e., the reasons for petitioner's ejectment from the motel did not trigger a period of ineligibility).

2. The hearing in Fair Hearing No. T-04/22-220 was convened as scheduled. During the hearing petitioner expressed dissatisfaction with his prior motel placement and alleged that he had been denied a room at a different motel owned by the same person because he had raised health concerns at the prior motel. There is no credible evidence in the record to support this allegation, even if this issue involved Department action or inaction of some kind.

3. Shortly after the hearing was completed in Fair Hearing No. T-04/22-220, petitioner submitted another appeal received by the Board just after 4 p.m. on April 29, 2022, which was scheduled for a telephone hearing on May 10, 2022. This appeal was docketed by the Board as Fair Hearing No. T-04/22-241.

4. During the May 10, 2022 hearing, the Department moved to dismiss the appeal in T-04/22-241, in part due to the allegation that petitioner had spoken inappropriately to Department workers. Additionally, the Department asserted that at the time the appeal was filed, petitioner had been approved for housing in Rutland and had been accepted by an area motel but had been unable to reach the location because his car had broken down, an assertion that petitioner did not dispute. Petitioner had subsequently requested housing in Bennington. The Department had not imposed a period of ineligibility or otherwise denied a benefit or services to petitioner.

5. Petitioner, in turn, asserted that he had been staying at the Cortina Inn, but could not live "in cat urine" with "no running water" and mold present. He stated that he had also been offered accommodation at a motel in Bennington, but that "it's a slum" and "a misuse of federal funds." Petitioner complained of the high monthly cost charged by certain motels, alleging that crack houses and opium dens were being set up while veterans remained unhoused. He indicated that the voucher program was a "failed project" that made billionaires of certain motel owners who engaged in "price gouging," and that Department phone workers had

continually triggered his PTSD, despite him having told them about his diagnosis.

6. Petitioner then stated that his appeal was based on the denial of a room at the Quality Inn on North Main Street on April 22, 2022. He alleged that the room had been given to somebody else, even though he had not broken any of the motel rules and there had not been a hearing on whether rules had been broken.

7. Petitioner stated that if another placement was available, he would have to look up the reviews and cautioned that he did not "do well with drug addicts."

8. Neither of the petitioner's appeals involve the denial of a benefit or service by the Department, nor any claim by petitioner relating to an issue meriting Board relief.

ORDER

Petitioner's appeals are dismissed.

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 (O) (4).

In both these appeals, 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 Economic Services Division and COVID-19 (webpage): <https://dcf.vermont.gov/esd/covid19>.

The statute governing Human Services Board appeals permits a recipient of assistance from the Department for Children and Families to file a fair hearing request with the Board. See 3 V.S.A. § 3091(a). The Board will grant the opportunity for a fair hearing to a person whose request is based on the denial of a claim for assistance, benefits or services, or where such claim:

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.

Id.

Here, petitioner has made numerous complaints relating to various private motels and the Department's general operation of the GA Emergency Housing program. The Department has not denied him any benefits under the Emergency Housing program, nor has petitioner identified any other denial or reduction of a service or benefits falling under the Board's jurisdiction. Petitioner has otherwise failed to state any cognizable grievance as to any benefit or service administered by the Department. As such, while it is unclear whether petitioner may have a private right of action against a particular motel, he has failed to present a claim that would entitle him to relief before the Board. Thus, the Board lacks jurisdiction to issue a substantive decision in either of the appeals under review here. See *In re S.J.*, No. 2022-155, 2022 WL 131224 (Vt. Jan. 14, 2022) (unpub. mem.).

For the above reasons, petitioner's appeals must be dismissed as beyond the Board's jurisdiction. See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4(D).

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