

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing Nos. A-07/11-444
)
) & A-08/11-486
Appeal of)

INTRODUCTION

The petitioner appeals decisions by the Department for Children and Families, Economic Services Division, denying his applications for temporary housing assistance under the General Assistance program. The issue is whether the petitioner meets the eligibility requirements for temporary housing assistance.

The decision involves two separate denials for temporary housing assistance under the General Assistance program. Expedited relief was granted petitioner under Fair Hearing No. A-08/11-486 on August 17, 2011.¹ Petitioner has a history with the Department that will be referenced below. His full history and needs were not known until the matter was heard on August 17, 2011.

FINDINGS OF FACT

¹ Petitioner lost his temporary housing assistance due to noncompliance with program requirements. Petitioner reapplied for temporary housing and was denied. He requested a fair hearing. He did not appear for Fair Hearing No. A-08/11-528 and his case was dismissed on September 26, 2011.

1. The petitioner is a single individual. He was released from the Brattleboro Retreat during May 2011 with diagnoses of Opioid Dependence, Cannabis Dependence, Depressive Disorder NOS and Hepatitis C. The petitioner has a conviction for sexual assault of a minor. As a result, homeless shelters housing families are not available to petitioner.

2. The petitioner first requested a fair hearing during June 2011 due to a denial of personal needs monies and temporary housing assistance (Fair Hearing No. A-06/11-363). At the time, petitioner requested assistance; he was staying with the mother of his girlfriend and was not homeless. He was later granted personal needs monies and the case was withdrawn on August 10, 2011.

3. The petitioner asked for an expedited hearing on July 22, 2011 after being denied temporary housing assistance. The other hearing officer had the case set for regular hearing after advising the parties to explore other shelter options in the state. This request became Fair Hearing No. A-07/11-444.

4. Petitioner received help with housing from other sources during July 2011.² Petitioner has been a client of the Community Justice Center whose director wrote on July 19, 2011 that the Center provided petitioner with housing support on a week-to-week basis and a hotel room was paid for through July 22, 2011 but that they had no additional funds.

Petitioner is also a client of Vocational Rehabilitation and petitioner's counselor wrote on August 1, 2011 that Vocational Rehabilitation paid \$276.00 towards petitioner's rent in July.

5. A telephone status conference was held on August 1, 2011. At that time, petitioner was at a friend's home for a short period of time. The Department explained they did not consider petitioner vulnerable and believed he did not have a catastrophic situation. The case was scheduled for hearing on August 10, 2011.

6. Petitioner applied for temporary housing assistance on or about August 9, 2011 and was denied. He requested an expedited hearing on August 10, 2011.

7. On August 10, 2011, the scheduled hearing was turned into a status conference as the petitioner's

²The materials referenced in this paragraph were filed with the Board on August 17, 2011.

representative told petitioner not to appear; the petitioner's representative treated the scheduled date as a status conference. The hearing was turned into a status conference, in part, because the Department's attorney had not received the materials from his client to go forward. Petitioner was gathering documentation. The parties were to confer and get back to the hearing officer if further hearing was needed.

8. On August 17, 2011, petitioner filed with the Board additional materials including:

a. Letter dated August 8, 2011 from petitioner's case manager at the local homeless shelter explaining that petitioner was ineligible to stay at the shelter.

b. Letter dated August 10, 2011 from D.P. from the Howard Center explaining that petitioner attended the intensive outpatient program ten times during June and had individual counseling three times in July. She wrote "homelessness would present a level of stress and lack of stable environment that would put [petitioner] at risk for relapse, severe health problems, and overdose." There was separate documentation from July 21, 2011 of petitioner's participation in programs.

c. Letter dated August 1, 2011 from a VABIR counselor of the efforts made on June 29, 2011 and July 20, 2011 to find alternative shelter space in Vermont. At those times, no shelter would take petitioner given his criminal background and/or the lack of openings. Petitioner was put on the wait list of some programs but had not heard back as of the date of the letter.

9. On August 17, 2011, the hearing officer heard the case and ordered temporary housing for the petitioner based

on Fair Hearing No. A-08/11-486 as the petitioner met the policy provisions as a vulnerable person.

ORDER

The Department's decision to deny temporary housing assistance under the General Assistance program in Fair Hearing No. A-07/11-444 is affirmed and the Department's decision to deny temporary housing assistance under the General Assistance program in Fair Hearing No. A-08/11-486 is reversed.

REASONS

The General Assistance program provides a safety net in limited situations provided that funds are available. 33 V.S.A. § 2103.

Temporary housing assistance is found in W.A.M. § 2652.2 that states, in part:

Temporary housing is intended to **provide short term shelter (84-day maximum)** for applicants who are involuntarily without housing through circumstances they could not reasonably have avoided and for whom permanent housing or alternative arrangements are not immediately available. "Could not reasonably have avoided" is subject to the limitation in rule 2621 (4).

Authorization for temporary housing may be issued for periods of not more than seven days. Payment may be authorized in an amount necessary to secure such housing at the least expensive rate available to the applicant at that time.

Temporary housing payments above the GA payment maximums **will be allowed for only 84 days in any consecutive 12-month period.** The 12-month period is computed from the date of application to the same day of the month 12 months prior. The 84-day period need not be consecutive. After the 84-day period, payments are allowed only up to the permanent housing payment maximum.

The 84-day temporary housing maximum is cumulative for the Emergency Assistance and General Assistance Programs. An applicant who has received 84 days in temporary housing under EA during a 12-month period is not eligible for any further temporary housing assistance under GA for the same 12-month period. Temporary housing beyond 28 cumulative days in any consecutive 12-month period is not an entitlement; payments shall cease upon expenditure of the annual appropriation for this purpose.

Housing authorizations in amounts above the GA payment maximums shall be discontinued as soon as permanent housing is located, or reduced if less expensive temporary housing becomes available while the applicant seeks permanent housing. (emphasis added.)

The above regulation needs to be read in conjunction with W.A.M. § 2620 in which applicants "must have exhausted all available income and resources" (subsection B) and must explore and use alternative resources including community resources such as available beds at a local homeless shelter (subsection C).

The Department periodically writes guidelines for staff to use when determining eligibility. On August 1, 2011, the Department put into place new GA Emergency Housing

Operational Guidelines and Procedures.³ In terms of requirements, the Department will cover an adult who is part of a vulnerable population or is homeless due to a catastrophic event. Vulnerable populations include those individuals who are blind or disabled or have a situational disability. Petitioner is part of a vulnerable population due to his diagnoses for both substance abuse and depression.

In terms of the two fair hearings, the Department's decision in Fair Hearing No. A-07/11-444 is affirmed. At the time in question, petitioner had housing through other sources. In addition, documentation of petitioner's health status was still outstanding.

In terms of Fair Hearing No. A-08/11-486, petitioner provided sufficient documentation to demonstrate that he is part of a vulnerable population. Petitioner was homeless. There was no evidence that other shelter space was available. Petitioner had exhausted resources from other community sources in July 2011 for housing. As a result, the Department's decision to deny temporary housing under the General Assistance program was incorrect.

³ These guidelines include only twenty-eight days of hotel/motel for households without children. This cap is contrary to the regulations. The Board addressed this type of cap previously in Fair Hearing No. B-03/11-158.

Based on the foregoing, the Department's decision in Fair Hearing No. A-07/11-444 is affirmed and the Department's decision in Fair Hearing No. A-08/11-486 is reversed. 3
V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

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