

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-03/13-246  
 )  
Appeal of )

INTRODUCTION

Petitioner filed a request for an expedited hearing alleging she was denied an accessible motel room at the Shelburne Motor Lodge, where she stayed as part of the Department for Children and Families' ("Department") temporary housing program. An initial hearing was held April 11, 2013, which was continued on April 18. At the end of the April 18 hearing petitioner raised additional issues, alleging she was denied an accessible motel room at the America's Best Inn in Brattleboro, also as part of the temporary housing program, and that she was wrongfully denied temporary housing on April 4, 2013. The hearing was continued to April 25 to address these new issues raised by petitioner. The following findings of fact are based on the testimony and representations of the parties during the hearings listed above.

FINDINGS OF FACT

1. Petitioner is an individual with a disability and must use a motorized wheelchair for ambulation.

2. Petitioner is homeless, in the process of searching for permanent housing, and has applied for temporary housing on numerous occasions over the past four months.

3. Petitioner therefore has required an accessible motel room in order to participate in the Department's temporary housing program. While petitioner has largely been granted temporary housing, she alleges that on two occasions she did not receive an accessible motel room.

4. The first allegation petitioner makes is regarding her stay at the Econolodge in Shelburne under a grant of temporary housing that commenced on February 22, 2013. She claims that the room she was given was not accessible.

5. Petitioner's own testimony established that a temporary ramp was provided to the room she was given on February 22. Petitioner also testified that the temporary ramp, which she considered flimsy, was improved the following day.

6. Even by her own testimony, Petitioner had access to her motel room during her temporary housing grant of February

22, and her concerns about the ramp to her room were addressed.

7. The Department also submitted credible testimony that the interior of the room petitioner stayed during the time period in question was accessible, and that motel management utilized a temporary ramp to provide accessibility to and from rooms for individuals requiring a ramp. Department testimony also established that the ramp appeared to be well-built.

8. Petitioner subsequently made an allegation at the close of her April 18 hearing that the room she stayed in at the America's Best Inn in Brattleboro from January 12-17, 2013, was also not accessible.

9. The Department presented credible testimony that the room petitioner was provided with was accessible - both with respect to access into and out of, but also the interior and bathroom of the room itself.<sup>1</sup>

10. Petitioner did not dispute the testimony that the room itself was accessible. Instead, her claim of inaccessibility appears to rest on the fact that she was initially given a room that did not appear to be accessible,

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<sup>1</sup> Credible testimony from the motel manager also established that petitioner requested, and received, special consideration in how her room was cleaned, due to her claim of chemical sensitivity.

and thus her room assignment had to be changed when she checked in; and, that there was one step down to the breakfast area in the main lobby of the motel. Petitioner also testified that breakfast was delivered to her room.

11. Finally, petitioner alleges she was wrongly denied temporary housing pursuant to an application on April 4, 2013. Petitioner was subsequently granted temporary housing on the following day, April 5.

12. The Department presented credible testimony that the basis for petitioner's April 4 denial was because she had not met her housing spend-down, based on her Social Security income (SSDI and SSSI) minus deductions for phone, personal needs, and food. The housing spend-down is a Department requirement that applicants spend a certain portion of their income on housing before they can be granted temporary housing.

13. Petitioner had previously been granted housing for a period ending with the night of March 31. She receives her SSI payment on the 1<sup>st</sup> of the month, which started a new housing spend-down period for her on April 1. On April 4, petitioner documented spending \$212 on housing starting April 1. Her housing spend-down amount determined by the

Department was \$459.75. This was based on her Social Security income of \$782.04, minus a total of \$169 in allowed deductions, multiplied by 75 percent.

14. Petitioner does not dispute these figures. Rather, she claims that she was given a smaller spend-down amount in prior months, and therefore should have received the same spend-down amount in April.<sup>2</sup>

ORDER

The Department's decision is affirmed.

REASONS

The Department's General Assistance (GA) program is an "emergency financial assistance" program for eligible applicants. GA Rule 2600. GA provides financial assistance for a variety of needs, including temporary housing for eligible individuals and families who are involuntarily without housing. GA Rule 2652.2. The temporary housing program has typically relied upon payment for motel stays that range from one night to two weeks at a time.

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<sup>2</sup> It should be noted that petitioner has submitted approximately 100 pages of faxed materials to the Board consisting of notes, letters, and summaries of her various motel stays, among other things, related to the temporary housing program and a separate matter involving the Department of Disabilities, Aging and Independent Living. While the submitted documentation contained numerous allegations against a variety of entities, this recommendation is based on the testimony submitted and admitted at hearing.

Putting aside issues related to the nature and scope of petitioner's claims of inaccessibility and any potential remedy, petitioner has not, in the first place, met her burden of establishing that the rooms provided to her were inaccessible. Not only did her own testimony fail to establish this, but her allegations were firmly rebutted by credible evidence presented by the Department.

Likewise, petitioner has failed to establish that the Department's denial of temporary housing on April 4 was inappropriate under existing rules and practices. The Board has previously ruled that the housing spend-down applied by the Department here is authorized and appropriate under GA rules. See FH No. 16,597 (application of 80 percent housing spend-down affirmed). Petitioner did not dispute the Department's calculation of her income and applicable deductions. While the Department may have applied a different spend-down amount in prior months, for reasons also potentially consistent with applicable rules, this does not render inappropriate the spend-down applied to petitioner in April.

Therefore, the Department's denial and administration of the program was consistent with the applicable rules and

procedures, and must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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