

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/15-22
)
Appeal of)

INTRODUCTION

Petitioner appeals a denial of General Assistance ("GA") emergency housing by the Vermont Department for Children and Families ("Department"). The following facts are adduced from a hearing held January 15, 2015. Petitioner was denied expedited relief at the hearing.

FINDINGS OF FACT

1. Petitioner is homeless but does not meet eligibility for temporary or emergency housing assistance through GA. He only receives housing assistance when the "cold weather exception" ("CWE") applies.¹

2. Petitioner applied for housing on January 5, when the CWE was in effect, and was denied assistance because a bed at a local shelter was available to him.

3. Petitioner indicated at the time that he has a medical condition precluding him from staying at the shelter.

¹ Generally speaking, the CWE was established by the Department to allow for the relaxation of the normal rules of eligibility during defined cold weather nights.

He was provided with a standard form which could be filled out by a medical provider to verify his need for a shelter exception, and his application was held open for the remainder of the day. Petitioner was informed that if he ultimately refused the shelter bed, absent establishing the need for an exception, he would be subject to a 30-day disqualification.

4. Petitioner did not return the medical form and did not enter the shelter, and states that he was able to stay with a friend that night.

5. Petitioner subsequently reapplied for housing assistance on January 9, and was denied based on his disqualification for 30 days, extending through February 3.

6. At hearing, despite the passage of several days, petitioner still did not have a completed form indicating a medical reason for a shelter exception. He states that he does not have an appointment until January 27 with his medical provider. He further states that he was never told about the potential for a 30 day disqualification, which contradicts representations of the Department's witness and the case note written on January 5, when he was initially denied.

7. Petitioner's account of events is not credited, given the clear recollection of the Department's witness and the case note contradicting his statements.

8. Petitioner was encouraged by the hearing officer to return the medical exception form verified by his medical provider, and allow the Department, and if necessary the hearing officer, to review the form. The hearing officer directed the Department to notify the Board if petitioner returned the form for review.

9. To date, the Board has not received any indication that the form has been submitted.

ORDER

The Department's decision is affirmed.

REASONS

Petitioner's sole eligibility for housing assistance is the cold weather exception. He does not meet eligibility for temporary housing (GA Rules § 2652.2) or emergency housing (GA Rules § 2652.3). The CWE does not directly address the situation of an applicant's refusal of available shelter space, although it does penalize applicants for 30 days if the applicant loses temporary housing at "the hotel or similar establishment for not following the rules of the

establishment," with the 30 days running from the last date temporary housing was authorized. The Department construes this to allow for application of a 30 day disqualification period when someone refuses shelter space, in that it is tantamount to a voluntary loss of housing.

The CWE is not part of the GA rules and is a purely discretionary program on the part of the Department. Even those who are eligible for housing under GA rules would normally be denied or disqualified for refusing available shelter space. See GA Rules § 2652.2 (denial warranted for failure to accept suitable housing accommodations) and GA Rules § 2652.3 ("Assistance shall not be authorized when appropriate shelter space is available."). Moreover, the budget act appropriating funding for the cold weather exception makes it clear that the funds may be used for the exception ". . . except in instances when: (1) appropriate shelter space, as defined in rules adopted by the Agency pursuant to subsection (c) of this section, is available . . ." FY 2015 Budget Act, No. 179, § E.321.1.

As such, the Department's application of a 30 day disqualification period for refusing to accept available shelter space, absent any medical or other reasonable justification, is within its discretion and appropriate under

the cold weather exception. The Department's denial is therefore consistent with the rules and the Board is required to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

#