

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-02/15-123  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the denial of General Assistance (GA) emergency housing by the Vermont Department for Children and Families, Economic Services Division. The following facts are based on the representations of the parties at a telephone hearing held February 6, 2015. The petitioner was denied expedited relief at the hearing.

FINDINGS OF FACT

1. The 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.<sup>1</sup>

2. The petitioner applied for GA housing at about 11:00 a.m. on January 30, 2015, when the CWE was in effect, and was denied assistance because a bed at COTS, a local shelter, was available at that time. The Department advised

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<sup>1</sup> 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.

the petitioner of the availability of the space at COTS, which is located a short walk from the Department's office.

3. The petitioner waited three hours before going to COTS. By the time he arrived there, the available space had been given to someone else.

4. The petitioner reapplied for GA on February 3, 2015. The Department denied his application because the petitioner had failed to avail himself of available space at the shelter on January 30. The Department informed the petitioner that his failure to avail himself of an available shelter bed would result in a 30-day disqualification from GA.

5. At the hearing held on February 6, the petitioner did not explain why he delayed going to the shelter on January 30. He admitted that he has been homeless for a long time and is familiar with the COTS first-come-first-served policy, and the fact that available space at COTS is infrequent and short-lived, especially in the winter. He also admitted he knows that once an individual is admitted to COTS, continued shelter at that facility can be long-term, provided that the resident follows the shelter's rules. The petitioner stated that he had stayed with friends between

January 30 and February 6, and could most likely continue to do so.

6. It is found that the petitioner deliberately delayed going to COTS on January 30 in order to be able to receive GA housing for a motel at a later time.

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 or sabotages available 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 Board has held that 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. Fair Hearing No. B-01/15-22. The Department's denial in this case must similarly be found to be consistent with the rules, and the

Board is therefore required to affirm. 3 V.S.A. § 3091(d),  
Fair Hearing Rule No. 1000.4D.

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