

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-01/16-30  
 )  
Appeal of )

INTRODUCTION

Petitioner appeals a denial of an exemption from being housed in a specific hotel under the General Assistance ("GA") temporary housing program by the Vermont Department for Children and Families ("Department"). The following facts are adduced from an expedited hearing held January 19, 2016, telephone status conference on January 22, and telephone hearing on January 28. Expedited relief was granted by the hearing officer between January 19 and January 28, and subsequently denied after the January 28 hearing.

FINDINGS OF FACT

1. Petitioner lives by herself. She is only eligible for General Assistance temporary housing assistance during nights when the cold-weather exception ("CWE") is in effect.
2. Petitioner has previously received a medical exemption from staying in a "co-ed" shelter environment, in the words of her physician due to "multiple experiences of harassment [that] triggers PTSD." Generally speaking, women-

only shelters and motels with private rooms have been considered medically acceptable.

3. In January of 2015, the Department's records indicate that petitioner requested that she not be given a room in Harbor Place, a motel (with private rooms) run by a non-profit agency. She was informed at the time that the request would require special permission from the agency operations unit, and her current medical documentation did not support such a request.

4. In February of 2015, a notation was made in the Department's records that petitioner could not stay at Harbor Place as well as another private motel. Nothing in the notation indicates the reason for or the duration of this restriction. The Department represents that, to the extent this may have been understood as a standing restriction, it was made in error.

5. Petitioner was not placed at Harbor Place for the remainder of 2015. It is not clear whether this was because of the unavailability of rooms there or because of a standing restriction on her temporary housing assistance.

6. In January of 2016, petitioner requested a shelter exemption as well as an exemption from placement in Harbor

Place. The Department initially denied both requests, which led to petitioner's appeal.

7. The Department ultimately granted petitioner's shelter exemption - based on her physician's certification described above. At hearing, petitioner stated that she also needed an exemption from staying in Harbor Place because she had been sexually harassed by the manager there in December of 2014. She further stated that she had reported this to the Department in December of 2014 or January of 2015.

8. The hearing officer granted expedited relief until the next hearing in order for the Department to review its records as to petitioner's allegation, as well as for petitioner to provide any additional documentation from her physician regarding her request for an exemption.

9. Petitioner subsequently submitted a letter from her physician stating that "[petitioner] reports that she had an uncomfortable, traumatic event at Harbor Place due to a specific staff member that triggered past trauma. In my medical opinion, staying at harbor place [sic] would increase stress and have a negative impact on her health."

10. During the same period of time, the Department contacted petitioner's physician, who reiterated that it would be "stressful" for petitioner to stay in Harbor Place;

that he was basing his opinion on her report and he wanted to support his patient; that he recognized the general benefits of staying in Harbor Place; that this is not a "life or death" issue; and that he would appreciate not having to "testify" any further regarding the issue. This additional information regarding the basis of the physician's opinion significantly moderates his letter supplied by petitioner.

11. The Department contacted Harbor Place about the alleged incident - Harbor Place reported there was no record of any report by petitioner of harassment or any other complaint during the time at issue.

12. The hearing officer requested that the Department produce its case action notes (CATNs) from December of 2014 through December of 2015. The CATNs show that petitioner last stayed at Harbor Place on December 22, 2014 and first requested to the Department not to stay there on January 20, 2015. While the CATNs also reflect the events described above, there is no record that petitioner reported being harassed or that the Department granted her an exemption on that basis.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. An applicant appealing an initial denial, as opposed to a termination of existing benefits, has the burden of establishing eligibility by a preponderance of evidence. See Fair Hearing Rule 1000.3.0(4).

The only issue in this case is whether petitioner should be granted an exemption from staying in Harbor Place. As she is not normally eligible for temporary housing under GA rules, it is only applicable on days that housing is available under the CWE, which permits the Department to relax the temporary housing rules during certain specified weather conditions. As the Department's policies generally permit consideration of whether an applicant is "unable to reside" in certain housing due to medical reasons, it is appropriate to consider whether the circumstances here merit her request for an exemption during CWE days.

Accepting petitioner's genuine belief that she reported an incident of sexual harassment in December of 2014 or January of 2015, no other record exists of this report or that the Department or Harbor Place had the opportunity to review this at the time. Even accepting this report more than a year later, the medical evidence does not sufficiently

establish that she is "unable to reside" in Harbor Place for medical reasons.

The Department's denial of petitioner's request is otherwise consistent with the rules and must be affirmed. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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