

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-02/16-135  
 )  
Appeal of )

INTRODUCTION

Petitioner appeals his disqualification for 30 days from General Assistance ("GA") temporary housing benefits by the Vermont Department for Children and Families ("Department"). The central issue is whether petitioner's appeal should be dismissed as moot. The following facts are adduced from an expedited hearing held February 18, 2016. Expedited relief was denied by the hearing officer.

FINDINGS OF FACT

1. Petitioner is homeless and applied for temporary housing on February 9, 2016. He was referred to the local "warming shelter" to see whether a bed was available there. Petitioner went to the warming shelter and, as no beds were available there, was told to go to another shelter which had available space.

2. Petitioner failed to apply for a bed at the alternate shelter, stating that he was inebriated and knew they would not admit him, as it is a "dry" shelter. The

warming shelter is a "wet" shelter, meaning occupants may be inebriated at admission.

3. Because he failed to apply for shelter, petitioner was disqualified from temporary housing for 30 days, beginning February 9, for refusing to accept available shelter. He was informed of this when he returned to the local district office to apply for housing on February 10.

4. During his interview with a worker on February 10, petitioner stated that he would not enter the "dry" shelter because he could not maintain his sobriety at any given time. The Department also received a letter from the manager of the warming shelter which similarly described petitioner as acknowledging that he could not guarantee his sobriety and therefore his compliance with the rules of admission at the alternate shelter.

5. At the time of hearing, three beds were available at the warming ("wet") shelter. These beds are single-day beds, but offer the opportunity for placement in one of the long-term beds at the shelter.

6. Petitioner is only eligible for temporary housing when the Cold Weather Exception ("CWE") is in effect.

7. Petitioner states that during the winter he often camps outside, but needs a break every once in a while so at

such times requests temporary housing assistance. He feels that his disqualification is unfair because he did as he was asked by going to the warming shelter, and there were no beds available - and while aware he would be penalized for not accepting a bed there, he states he did not know he would be disqualified for failing to accept a bed at the other shelter. He acknowledges that he could access a bed at the warming shelter on the day of hearing.<sup>1</sup>

ORDER

Petitioner's appeal is dismissed as moot.

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).

However, the threshold question is whether there is anything material for the Board to decide here. At the time of hearing, petitioner had access to housing at the warming shelter. Moreover, his eligibility for the Department's

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<sup>1</sup> The CWE was in effect on the day of hearing, for the evening of February 18. As petitioner had access to the warming shelter that night, if he chose to avail himself of shelter, this is not material to the outcome.

temporary housing program is limited to CWE nights. Finally, petitioner acknowledged that he does not always need or want temporary housing assistance because he often camps out. Not only did petitioner have access to housing at the time of hearing, see GA Rules §§ 2652.2 and 2652.3 (temporary housing is denied if appropriate shelter is available), but it is speculative to conclude that his disqualification for 30 days will even come into practical effect, as that assumes he will lose access to a bed at the warming shelter (also assuming he continues seeking shelter) and that the CWE will be in effect.

If petitioner has occasion to be without shelter and seeks temporary housing again during his disqualification period, he is free to reapply for assistance and request an expedited appeal if denied.<sup>2</sup> However, his current appeal is moot and must be dismissed.

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<sup>2</sup> Petitioner was advised of this option at hearing.