

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing Nos. 10,082
) 10,095
Appeal of) 10,114

INTRODUCTION

The petitioner appeals the Department of Social Welfare's denial of four requests for general assistance. As there are similar legal issues involved in each case, these appeals will be considered together.

FINDINGS OF FACT

1. The petitioner is an ANFC recipient who has one dependent child. She applied for assistance and was found eligible on September 28, 1990, retroactive to September 4, 1990, and was issued a check for \$540.00, representing payment for the past month of September and the coming month of October, after \$70.00 worth of G.A. payments made during September were deducted. The petitioner's ANFC payment did not include a "shelter allowance" because the petitioner was living in a shelter during September and had no living expenses. She also received \$193.00 worth of Food Stamps on September 22, 1990.

2. In early October, the petitioner found an apartment and the Department paid \$350.00 on that apartment through the General Assistance program. The petitioner's grant was

adjusted at that time to include a \$198.00 shelter grant amount and she was paid that \$198.00 on October 3, 1990.

3. On October 12, the petitioner applied at the Department of Social Welfare office for assistance in obtaining household furnishings, particularly beds and pots and pans, and money to get her utilities connected. She was denied general assistance both because her income was above standards for her household size during the last thirty days and because she did not establish that her needs were an emergency. The petitioner does not dispute that she received \$1,088.00 in G.A. and ANFC benefits since September 28, 1990. She stated, however, that in addition to paying her usual expenses she had to pay a \$198.00 fine for driving without a license. She offered no evidence that her lack of furnishings or fuel presented a medical emergency.

4. On October 16, 1990, the petitioner applied for assistance again, seeking money for a gas deposit. Without gas she was unable to cook her food and was buying more prepared foods at the store. At that time, she was denied because "Funding for this benefit has been exhausted." The Department later took the position that the denial was actually for the same reason as her October 12 denial, namely that she was over-income for general assistance. The petitioner was subsequently assisted with a gas deposit by the local CAP agency.

5. On October 22, 1990, the petitioner applied for money to buy food because she had used all her Food Stamps buying prepared foods. She was turned down again because her income was above Department standards (a full ANFC grant in October). On October 23, 1990 she again applied for food and was turned down for general assistance for the same reason. At that interview she supplied a statement from a church minister that she had no food. On October 24, 1990, the petitioner received her monthly Food Stamp benefit of \$127.00

6. On October 29, 1990, the petitioner again applied for general assistance and was provided with \$17.50 for food because her ANFC check had been received September 28, 1990, more than thirty days before. On October 31, 1990, the petitioner received her first of two monthly ANFC payments in the amount of \$313.00 representing 60 percent of her total grant. On November 8, 1990 she received \$115.00 through the supplemental fuel assistance program.

7. The petitioner appealed all of her October G.A. denials. In the course of reviewing her denials, the District Director discovered that the petitioner may have been eligible for the emergency assistance program and a once per year program for eligible ANFC recipients to cover some of her requests. Because she had received E.A. in October of last year, she was originally believed to be ineligible until November but that belief was based on a miscalculation. On November 2, 1990, the petitioner was

invited, via a letter, to apply for emergency assistance and in order to do so was advised that she would have to provide information as to how her family came to their present home, and lost its previous housing. The petitioner responded in writing stating, "I think that it is my personal business and individual concerns in life that brought me to Brattleboro; which in turn has nothing to do with my living situation now. The concern is not my pass living situation. We are way pass that." (sic) The petitioner did not provide information for the E.A. program although she indicated at the hearing that she might be willing to do so now. The Department stated that the petitioner refused to co-operate and that several pieces of information were needed partly because some confusion has arisen because the petitioner previously used a different name and social security number.

8. On November 13, 1990, the petitioner again applied for assistance to buy shoes for her daughter believing that she was entitled to a \$50.00 clothing allowance. She was denied again for being over-income in the last thirty days.

At the hearing, the Department indicated that the denial reason was incorrect and that she was not, in fact, over income on November 13th because in the last thirty days she received only \$330.50 (\$313 from ANFC, \$17.50 from G.A.) which was below the \$522.00 ANFC standard. However, the Department maintained that the petitioner was still ineligible because no emergency need was demonstrated. The

worker observed that the petitioner's child had shoes of some sort (her mother argues that she had worn out the tennis shoes she was wearing) and that if they needed to be replaced, the petitioner would be receiving the second portion of her ANFC grant in two days. The petitioner did, in fact, receive \$209.00 on November 15, 1990 and \$313.00 again on November 30, 1990.

9. The petitioner bases her appeal on the fact that she has never asked for anything that she doesn't absolutely need and could not afford to buy. She is convinced that she has been denied assistance illegally as part of an office wide attempt to deprive her of her civil rights. She believes she has been singled out for special mistreatment and, in spite of the fact that she has been provided a copy of the G.A. regulations, she challenges the Department's contention that decisions in her case are being made based on regulations applicable to all requests for emergency funds.

ORDER

The Department's decision on each of the petitioner's General Assistance applications is be affirmed.

REASONS

The Department's General Assistance program exists to meet the emergency needs of eligible families when "such need cannot be met under any other Department program." W.A.M. § 2600A. The regulations specify eligibility

criteria for families with minor dependents as follows:

Except as specifically provided in 2602 (catastrophic situations) General assistance shall be granted to those applicants who have minor dependents included in their application only if they:

1. Have received during the 30-day period immediately prior to application net income computed pursuant to General Assistance regulations which is below the applicable ANFC payment level for that size household in similar living arrangements.
2. Have not been disqualified for ANFC or Medicaid benefits because of their refusal to comply with a program eligibility requirement; and:

If a GA applicant has been disqualified for ANFC or Medicaid benefits due to a refusal to comply, the duration of the disqualification period for GA will be a minimum of 30 days, or the length of the disqualification period for the other program, whichever is longer.

For example, if an ANFC-UP applicant has refused to cooperate with WIN Program requirements and is disqualified for ANFC for a 40-day period, he will also be disqualified for GA for a 40-day period. If, however, he were disqualified for ANFC for less than a 30-day period, his disqualification for GA would extend to 30 days.

3. Actively pursue all potential sources of income, such as: ANFC, SSI/AABD, Medicaid, Social Security benefits, Veterans benefits, wages, unemployment or workmen's compensation, support, insurance, etc. Pursuit of income means initiating an application and cooperating with requirements for a timely decision; and:
4. Have emergency need; and:
5. Have exhausted all available income and resources except that:
 - a. Applicants who have available resources less than their need shall have the amounts of the resources deducted from the G.A. grant.
 - b. Single individuals age 62 or over, or in receipt of SSI/AABD or social security based on blindness or disability, may have up to

\$1,500 of available resources disregarded. A married couple, either of which meets the above criteria, may have up to \$2,250 of available resources disregarded. Only resources in excess of these amounts will be counted as "available" in determining eligibility or benefits for such persons, excluding eligibility and benefits payable relating to burial expenses (Section 2640 - 2648).

- c. Resources which have been set aside in an escrow account for the purpose of paying property taxes or insurance shall be disregarded except as to their availability for payment of such intended expenses.

- 6. Have complied with the employment requirements in 2607.1, if applicable.

W.A.M. 2600(c)

If the above criteria cannot be met, an individual is eligible for General Assistance only if she has an emergency need caused by a "catastrophic situation":

Catastrophic Situations

Any applicant who has exhausted all available income and resources and who has an emergency need caused by one of the following catastrophic situations may have that need which is indeed caused by the catastrophe met within General Assistance standards disregarding other eligibility criteria. Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem:

- a. Death of a spouse or minor dependent child; or
- b. A court ordered or constructive eviction due to circumstances over which the applicant had no control. An eviction resulting from intentional, serious property damage caused by the applicant; repeated instances of raucous and illegal behavior which seriously infringed on the rights

of other tenants of the landlord or the landlord himself; or intentional and serious violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement shall not include nonpayment of rent unless the tenant had sufficient financial ability to pay and the tenant did not use the income to cover other basic necessities or did not withhold the rent pursuant to efforts to correct substandard housing.

- c. A natural disaster such as flood, fire or hurricane; or
- d. An emergency medical need. Actions which may be evaluated as emergency in nature include, but are not limited to, the following:
 - 1. Repair of accidental injury;
 - 2. Diagnosis and relief of acute pain;
 - 3. Institution of treatment of acute infection;
 - 4. Protection of public health; or
 - 5. Amelioration of illness, which if not immediately diagnosed and treated could lead to disability or death.

W.A.M. 9 2602

The petitioner received \$1,088.00 in ANFC and G.A. payments between September 28 and October 3, 1990, which is an amount considerably higher than the ANFC payment level for her household, which is \$522.00 per month. Therefore, until at least thirty days after September 28, the petitioner cannot meet the financial eligibility criteria for regular general assistance and can thus be found eligible during that time period only if she meets the criteria for a catastrophic situation. None of the petitioner's application on October 12, (furniture) October 16, (fuel deposit) October 22, (food) or October 23, 1990, (food) concern requests which fall under the "catastrophic" category. She did not show she was being evicted, had an

emergency medical need or had been effected by a natural disaster or death of her spouse or child. The Department was correct in finding her ineligible under this program on these applications.

At the time of the petitioner's November 13, 1990 application, the records show that in the preceding thirty days the petitioner had received only \$330.50, which was under the \$522.00 level, making her financially eligible for regular general assistance. However, under this regulation financial eligibility is only one criterion and other factors must be considered, including whether an "emergency need" actually exists. In this case, the Department's determination that the petitioner's daughter's need for new shoes was not an emergency was a reasonable one because the family was only two days away from a \$209.00 ANFC payment and the child had some sort of shoes she could arguably wear until for then. Given the scarcity of G.A. funds, and the number of real emergencies which must be addressed with these funds, it cannot be concluded that the Department's decision was incorrect. There is also no evidence that the petitioner was being singled out or treated differently from other applicants who have made similar requests.

It appears in this matter that the Department was in error when it failed to assess the petitioner's eligibility for "emergency assistance" under the ANFC program. However, that error has been ameliorated by the

Department's efforts to get the information needed from the petitioner to make a decision on her eligibility under that program. She is encouraged to pursue that application and advised that she may file an appeal if she is ultimately determined to be ineligible. Perhaps after reading this decision, the petitioner will understand the parameters of the G.A. program and realize that it is not designed to meet all of the legitimate needs of all applicants but rather to meet the most pressing, emergency needs of persons who have income and resources which are even less than that of a family receiving public assistance.

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