

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-04/14-278
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services denying his application for temporary housing assistance under the General Assistance (GA) program. The issue is whether the petitioner meets the criteria for "catastrophic" eligibility.

An expedited fair hearing was held by telephone on April 16, 2014. The following findings of fact are based solely on the representations of the petitioner's counsel submitted in writing on April 21, 2014.

FINDINGS OF FACT

1. The petitioner is single and is disabled due to depression and PTSD. According to the Department's records the petitioner is 49 years old, and his only income is SSI benefits of \$773 a month and Food Stamps (3SquaresVT) of \$189.

2. In November 2013 the petitioner moved into a trailer in Swanton, Vermont after paying a rental deposit to the trailer's owner. A week later, after contacting the Town

Health Officer, the petitioner moved out of the trailer because there was no water and the toilets did not work. The petitioner moved into a motel, and sometime thereafter the Department found him eligible for GA based on his having been "constructively evicted" from his last rental housing.

3. On February 1, 2014 the petitioner went to Missouri to try to reunite with his adult daughter. In Missouri he rented a motel room for a week, then he moved in with his daughter, who was living with friends. When his daughter lost her housing he moved into a shelter.

4. On April 1, 2014 the petitioner called the Department to report that he had moved to Missouri, and he requested the Department to "close out" his Vermont benefits (Food Stamps and Medicaid).

6. Shortly thereafter, the petitioner's relationship with his daughter deteriorated (allegedly due to her continuing drug use). On April 7, he returned to Vermont. He had been living in the shelter in Missouri for the previous three weeks.

7. On April 11, 2014 the petitioner applied for GA for temporary housing. The Department denied his application, and in an oral ruling following the expedited hearing held on

April 16, 2014, the hearing officer affirmed the Department's decision.

8. There is no claim or indication either that the shelter in Missouri did not constitute suitable temporary housing for the petitioner or that the petitioner could not have remained indefinitely at that shelter, and would not have been eligible for federal benefits--SSI, Food Stamps and Medicaid--through that state.

9. Although the petitioner claims to be a lifelong Vermont resident, under the circumstances (i.e., a lack of housing) it cannot be found that the petitioner had a compelling reason to leave Missouri and return to Vermont on April 7, 2014.

ORDER

The Department's decision to deny the petitioner GA temporary housing assistance is affirmed.

REASONS

The General Assistance program provides a safety net in limited situations provided that funds are available. 33 V.S.A. § 2103. Under the regulations, temporary housing assistance up to a maximum of 84 days is available only to

those who meet the criteria for "catastrophic" eligibility.

W.A.M. § 2620 provides in part:

Applicants with an emergency need attributable to a catastrophic situation (rule 2621) may qualify for GA to address that need. . .

To qualify for such assistance, applicants must meet all of the following eligibility criteria:

- A. They must have an emergency need attributable to a catastrophic situation, as defined in rule 2621.
- B. They must have exhausted all available income and resources.
- C. They must explore and pursue or have explored and pursued all alternatives for addressing the need, such as family, credit or loans, private or community resources, and private or government-sponsored health insurance. . .

"Catastrophic Situation" as defined at W.A.M. § 2621(D)

includes the following:

A court ordered or constructive eviction, as defined at rule 2622, due to circumstances over which the applicant had no control.

Temporary housing assistance is described in W.A.M. § 2652.2 as follows:

Temporary housing is intended to provide short term shelter (84-day maximum) for applicants who are involuntarily without housing through circumstances they could not reasonably have avoided and for whom permanent housing or alternative arrangements are not immediately available. "Could not reasonably have avoided" is subject to the limitation in rule 2621 (D).

The Board has repeatedly noted that an essential underpinning of the above regulations is to determine whether an individual (adult) can be determined to be without fault regarding his or her homelessness. See e.g., Fair Hearing Nos. B-10/12-635 and M-03/12-163. In this case, there is no dispute that the petitioner, when he first applied for GA in November 2013, had been "constructively evicted" from his trailer in Swanton within the meaning of Rules 2620-2622 (*supra*). The issues are whether in April 2014 the petitioner "involuntarily" left suitable "alternative" housing at the shelter in Missouri and moved back to Vermont due to "circumstances (he) could not reasonably have avoided", within the meaning of Rule 2652.2, *supra*.

The petitioner argues that he should not be "penalized" for having moved to Missouri for two months, and that in applying the above regulations the Department must look instead only to his last "permanent" housing, i.e. the trailer in Swanton (where he lived for *one week* in November 2013). However, nothing in the facts alleged by the petitioner demonstrate that his leaving the shelter in Missouri and moving back to Vermont can or should be considered "involuntary". Based on the above facts and circumstances, it cannot be concluded that the Department has not followed

either the letter or spirit of the above regulations. Accordingly, the Department's decision to deny the petitioner's application for GA for temporary housing under Rule 2652.2 must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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