

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9990
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department of Social Welfare's denial of general assistance benefits to pay for heating fuel.

FINDINGS OF FACT

1. The petitioner is a disabled man who lives on Social Security disability payments. He rents an apartment which he sometimes shares on a temporary basis with persons who are homeless until they can find a job or a more permanent place to live. These persons are not related to him and he has no obligation to support any of them. He does not charge them for shelter.

2. On June 4, 1990, the petitioner applied to the Department for assistance to buy gas for heating, cooking, and bathing which he was using rapidly due to the presence of three homeless persons in his apartment. At the time he applied he had fuel but he had only a small supply left.

3. In his application the petitioner reported that he had \$50.00 in cash, \$150.00 in a checking account and \$10.00 in a savings account. He reported his income as \$989.00 per month and that of one of his other household members as \$154.00 per month. The petitioner testified that his fixed

monthly expenses are \$275.00 as rent (which includes electricity), \$166.50 for his car and \$124.00 for insurance. His food costs from \$200.00 to \$300.00 per month. His fuel expenses average about \$50.00 per month, outside of winter.

4. At the end of his interview, the petitioner was handed a notice of decision denying his application because "your income for the last thirty days is greater than Department standards allow for a household of your size."

5. Following his denial, the petitioner managed through "kiting" checks to pay for three more \$50.00 gas deliveries. On July 31, 1990, almost two months after his original denial, the petitioner appealed that decision.

6. On August 3, 1990, the Department sent a notice to the petitioner saying that his case had been reviewed and that the denial stood because his "income of \$989.00 per month exceeds the eligibility standard of \$402.00 per month by \$587.00". The notice advised him that he could reapply for assistance and "have the people living with you apply for assistance to help pay for their own living expenses. You appear not to be under any legal obligation to provide for them."

7. The petitioner responded by letter dated August 11, 1990, and still maintains, that he should be assisted by the state because he in turn is providing shelter for people who have no money and helping them to get to job training programs and job interviews. At the time of the hearing on

September 17, 1990, the petitioner had fuel but said he was running low again. He said he had about \$50.00 on hand for the rest of the month. One of his house guests had left and he had asked the other two to apply themselves for assistance but he was not sure if they had or not.

ORDER

The Department's decision is affirmed.

REASONS

General Assistance can be provided to a disabled individual and his dependents to meet emergency needs under certain circumstances. See W.A.M. § 2600A. Those circumstances are set out as follows:

. . .

- C. Except as specifically provided in 2602 (catastrophic situations)¹ 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 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 for 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 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 amount 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 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.

The petitioner was denied assistance under paragraph one of the regulations because the ANFC payment level for a family of one, \$402.00, is \$587.00 below the petitioner's reported monthly income of \$989.00. If the petitioner's household group indeed consists of only one person, the petitioner has failed to meet the first eligibility requirement and the Department's decision is correct.

The petitioner argues, however, that his household should be found to include the three unrelated persons who are living with him because he is providing them with shelter and transportation. The definitional section of the General Assistance regulations discuss who can be included in the request for assistance:

. . .

Applicant - means the individual who is applying for General Assistance for his own needs and for the needs of those dependents with whom he lives and for whom he is legally responsible. All individuals who reside with the applicant in Vermont must be included in the application if they are legally dependent upon the applicant or the applicant is legally responsible for such individuals. Individuals age 18 or over who live with their parents shall not have their needs, income, or resources included in the application of their parents. Such individuals are considered a separate family and must complete a separate application.

For married individuals, living together, the term applicant refers to both spouses and either spouse may complete the application.

Dependent - dependents are husband, a wife, natural, adopted or step-child(ren) under age 18. A married person under age 18 has been emancipated by marriage and is not considered a minor dependent. A pregnant woman shall be considered to have a "minor dependent included in her application" although the fetus shall not be otherwise considered prior to birth.

. . .

W.A.M. § 2601

These regulations clearly limit the provision of assistance to household members who are legal dependents of the applicant. That definition excludes all persons to whom the petitioner is unrelated and not legally liable to support. As the persons currently being sheltered by the petitioner do not fit the definition of dependent, the Department was correct to exclude them from its computation of ANFC need based on household size.

While the petitioner's altruism in providing shelter and other help to homeless persons is commendable, the Department's regulations do not provide for assistance to unrelated groups through one eligible person. The petitioner has been advised that anyone in his home may apply individually for general assistance to meet his or her emergency needs including fuel or shelter. Each individual will then be assessed with regard to the eligibility standards.

FOOTNOTES

¹The petitioner does not argue for, and the facts do not support, eligibility under W.A.M. § 2602, catastrophic situation.

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