

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,975
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department's denial of his application for General Assistance based on his lack of two barriers to employment.

FINDINGS OF FACT

1. The petitioner is a thirty-three year old recovering alcoholic who since January 13, 1992 has lived in a supportive living environment for recovering alcoholics where his rent is \$70.00 per week. He attends alcohol counseling once per week and Alcoholics Anonymous meetings on a regular basis.

2. The petitioner has no children and is able-bodied. He applied for assistance with his rent, food, personal needs and furnishings on January 14, 1992. He was denied because the Department determined that he had only one barrier to employment-participation in a state or federally funded drug or alcohol treatment program-not the two needed for eligibility.

3. The petitioner claims he has a second barrier to employment, namely his release from a hospital unit in October of 1991 following an overnight hospitalization for observation following a motor vehicle accident. The petitioner agrees

that his hospitalization did not involve psychiatric problems in any way.

4. Subsequent to his initial application for G.A., the petitioner made two or three further applications. On February 4, 1992 the petitioner started working and is now seeking only a decision regarding a closed period of benefits from January 14 to January 31, 1992.

ORDER

The Department's decision is affirmed.

REASONS

Persons without children who are "able-bodied" may only qualify for General Assistance, a totally state regulated and funded program, if they have two or more barriers to employment as follows:

1. Age 40 or over;
2. Eighth-grade education or less;
3. Inability to read or write;
4. Lives 10 or more miles from a town of 2500 or more and has no available transportation, and cannot reasonably be expected to relocate within 30 days;
5. Has not for six consecutive months or more in the last five years been either employed by one employer or been a full-time student;
6. Released within 6 months from a mental health institution or hospital unit;
7. Participating in a state or federally funded drug or alcohol treatment program.

W.A.M. § 2607.1(c)

The petitioner here argues that he meets paragraph number 6 because he has been released from a "hospital unit" in the last six months. He contends that the plain language

in that paragraph signifies that a barrier will be found for persons released either from a mental health institution or from a hospital unit for any reason. The Department argues that the term "hospital unit" is modified by the term "mental health" in that sentence reflecting the Department's belief that recent treatment for mental illness can stigmatize a person seeking employment and pose an employment problem.

The language used in paragraph five can grammatically be interpreted either way. The Department's interpretation, if a reasonable one which does not conflict with the purposes of the statute or violate the plain meaning of the regulation, is entitled to considerable weight and deference. Bishop v. Town of Barre, 140 Vt. 564 (1982); In re Brooks, 130 Vt. 83 (1971). The petitioner put forth no evidence or legal authority that would enable the Board to conclude that the Department's interpretation of the rule is unreasonable or contrary to regulatory intent. In fact, the petitioner could offer no real rationale for his interpretation of the statute which assumes an obstacle to future employment for persons who have been in a hospital for any reason for any length of time. As the petitioner has shown no unreasonableness in the Department's interpretation of the regulation and has put forth a patently unreasonable interpretation of the language, it must be found that the Department's interpretation is controlling.¹ See Fair Hearing No. 5651.

FOOTNOTES

¹The hearing officer researched the history of the regulation at issue which was originally promulgated on June 10, 1974 and was unable to find any Department comments or other extrinsic evidence which would aid in the interpretation of this regulation.

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