

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,745

)

Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for General Assistance (GA). The issue is whether the petitioner meets the eligibility criteria set forth in the regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is a forty-four-year-old single man who has not worked regularly since 1990. The petitioner does not allege (nor is there any medical evidence to indicate) that he is unable to work because of any physical or mental disability.

Prior to July 1, 1995, the petitioner had received GA several times because he met a required two of the seven "barriers to employment" then set forth in the GA regulations--he was over forty, and he had not worked for a continuous period of six months in the last five years.

On July 1, 1995, however, the Department amended its GA regulations. One of the changes was to raise the age barrier to employment from forty to fifty-five. The Department informed the petitioner that as of July 1, 1995, he no longer meets this criterion of eligibility. It is not clear whether the petitioner still meets the employment history barrier, but he concedes that he does not meet any of the other barriers in the amended regulations (see infra).

ORDER

The Department's decision is affirmed.

REASONS

Effective July 1, 1995, the GA regulations were amended. W.A.M. § 2600(B) now provides as follows:

Except as specifically provided in 2602 (catastrophic situations), GA shall be granted to applicants who meet one of the following three criteria. The conditions of C (1-6) must also be met.

1. Have a minor dependent (2601), or
2. Do not have a minor or dependent and are not able-bodied (see 2601), or
3. Do not have a minor dependent, are able-bodied, and have two or more of the following employment barriers.
  - a. Age 55 or over.
  - b. Eighth-grade education or less -or- inability to read or write. Eighth grade education is completion of eighth-grade, but not completion of ninth grade.
  - c. Employment or self-employment of fewer than six months in the last five years and full-time student status fewer than six months in the last five years.
  - d. Release from a mental health institution or mental health hospital unit within the last 6 months.
  - e. Participating in a state or federally funded drug or alcohol treatment program.

As noted above, the petitioner does not allege that he is "not able-bodied" (which under the regulations [§ 2601] includes mental impairments) or that he meets two of the listed "employment barriers" in paragraph 3. Although the change in the regulations has impacted harshly on the petitioner there is no question that the Department's decision in his case is consistent with those amended regulations. Therefore, the Board is bound by law to affirm the Department's decision. 3 V.S.A. 3091(d) and Fair Hearing Rule No. 19.

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