

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,861

)

Appeal of)

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for emergency fuel assistance benefits to purchase an air conditioner. The issue is whether the petitioner had an emergency need within the meaning of the pertinent regulations.

FINDINGS OF FACT

In the middle of last summer Vermont and several other northern states received special federal fuel program funds to provide assistance to individuals and households facing emergencies due to the extreme drought and heat conditions in those states. In a memorandum to district directors, dated August 3, 1995, the Chief of the Department's Fuel Program outlined the guidelines for the distribution of that assistance, which included the following:

LIHEAP COOLING ASSISTANCE FUNDS

Vermont received \$246,448 in a special federal grant release, as part of President Clinton's release of \$100 million for cooling assistance. 19 states were awarded funds in response to the extreme climatic conditions in July related to drought and extreme heat conditions.

5% of the funds would be allocated to assistance with fans or air conditioner for medically needy households. Criteria for A/C assistance would include:

1. **Extreme medical need, with life threatening health condition verified by a physician.**
2. **A prescription for an air conditioner would be required.**
3. **EF guidelines would be used for additional eligibility determination** (does the client have potential to purchase this via a loan, home equity, etc.)

4. Approval by the District Director or her/his designee.

We should emphasize that these are extremely medically needy individuals and that very few households will be able to be assisted under this component. This is NOT an entitlement program. . .

(Emphasis in the original.)

In the district where the petitioner lives the Department used the services of the local community action (OEO) agency to purchase air conditioners and fans for eligible individuals with a Department voucher. Therefore, eligibility decisions were orally conveyed by the Department directly to the OEO office, which then went ahead and made the purchases.

The petitioner, who has chronic respiratory problems, applied to the Department on August 14, 1995, for assistance to purchase an air conditioner. His doctor had verified that his medical situation at the time was "life-threatening". The petitioner filled out a written application and was told that he would be notified of his eligibility by the OEO office later in the day.

On the portion of the application that asked for the amount of "cash on hand" the petitioner meant to write \$120, which is what he indeed had. ⁽¹⁾ Unfortunately, however, instead of placing a period after \$120, the petitioner left a stray mark that made the figure appear as \$1201. The worker who reviewed the application (after the petitioner had left the office) called the petitioner to question this portion of the application. The petitioner was not home at the time, but the woman with whom the petitioner lives told the worker that it was undoubtedly an error. The worker told the woman she would call the petitioner back the next day to verify the amount the petitioner intended to put down.

The next day (August 15, 1995) when the worker called, the petitioner told her that he meant to put \$120.00 as his cash on hand. The worker told him she would check with her supervisor and let the petitioner know if the Department would approve the purchase of an air conditioner through the OEO agency.

For some reason the petitioner became discouraged at this point, and went himself to a local appliance store and purchased an air conditioner with a store credit card.

The next day (August 16, 1995), the OEO agency called the petitioner to inform him that the Department had approved the purchase of an air conditioner for him. The petitioner informed them that he had just purchased one himself. OEO advised the petitioner that it would inquire if the Department would reimburse the petitioner the cost of the unit he had just purchased.

On August 18, 1995, the Department informed the petitioner that his application was denied because he had been able to purchase the air conditioner himself.

ORDER

The Department's decision is affirmed.

REASONS

Welfare Assistance Manual (W.A.M.) § 2951 sets out the following eligibility criteria for emergency fuel assistance:

It is not the intent of these regulations to define a program of entitlement; i.e., a household whose income and resources are within the specified limits and who has a fuel need does not become entitled to a grant, and indeed may be denied. It is the intent of this regulation to provide a framework within which department staff, based on their judgment, may grant assistance to households who face a heating crisis.

In making this judgement staff will consider the individual situation; income, resources, prior applications, and what led to the crisis. Staff will also consider what potential income and resources are available and the extent to which the household can commit all or a portion of such potential toward meeting or partially meeting their current heating need crisis. This potential shall include all members of the household and not simply those bearing direct responsibility for the purchase of fuel.

Within this framework, staff will determine eligibility on the basis of conserving program funds and utilizing client resources to the maximum extent reasonably possible. Staff will make every effort to assist those who are denied eligibility to find alternative solutions to their problem.

In this case, although it does not appear that the petitioner's access to credit was even discussed when the petitioner applied for assistance,⁽²⁾ the above regulations appear to contemplate that credit is a "potential resource" that the Department can take into consideration in determining an applicant's eligibility for emergency fuel funds. Inasmuch as the petitioner was able to obtain an air conditioner on his own resources, it cannot be concluded that the Department's eventual denial of his application was contrary to the above regulation. Therefore, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

###

1. The petitioner and the woman with whom he lives are both on Social Security disability benefits.
2. Nothing on the application form, itself, mentions access to or availability of credit.