

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,009
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of PATH denying his application for General Assistance (GA). The issue is whether the petitioner had an emergency need within the meaning of the pertinent regulations.

FINDINGS OF FACT

1. The pertinent facts are not in dispute. In March 2001 the petitioner was a patient at an alcohol treatment facility in New York State. On March 23, 2001, he was transferred to a similar facility in New Hampshire. This facility required him bring a 30-day supply of medication.

2. The next morning, March 24, 2001, a Saturday, the petitioner went to a pharmacy near his family's home in Vermont. He had no money at the time and he was due at the New Hampshire facility that afternoon. His VHAP coverage would pay for only one half the cost of the prescription he needed, which was about \$450.

3. The pharmacy filled the prescription for the petitioner and advised him to apply for GA at the local PATH office when it opened on Monday. The petitioner left the pharmacy owing \$224.68 for the prescription it had filled, and he went to the New Hampshire facility that afternoon.

4. The petitioner's mother went to the PATH office on Monday, March 26, 2001 to apply for GA to pay the outstanding pharmacy bill. The Department denied this application on the basis that at that time (the date of application) the petitioner was not facing an emergency need.

ORDER

The Department's decision is affirmed.

REASONS

The Department's regulations provide that GA will be provided to eligible individuals "to meet emergency needs only, according to Department standards". WAM § 2600A. The regulations also provide that before assistance can be granted "alternatives must be explored (for example . . . credit)". WAM § 2602. Under "Pharmacy Service", section 2625 of the regulations provides: "An individual must apply for assistance before obtaining the pharmacy service."

The Board has consistently held that ex post facto applications for GA after an emergency need has already been met, even when through the generosity of third parties, cannot be considered an emergency need within the meaning of the above regulations. On the date his mother applied for GA the petitioner had already obtained his prescription and had already entered the treatment program. At that time and continuing at least until the date of the hearing (June 19, 2001), the petitioner's need consisted only of a debt to the pharmacy for having given him the prescription without requiring payment in advance. There has been no allegation or showing that the existence of this debt did or will ever prevent the petitioner from obtaining necessary medical care. Moreover, there has also been no showing that the petitioner will never be able to pay this debt on his own.

It is, perhaps, unfortunate that neither the petitioner nor, apparently, the pharmacy was aware of provisions in state law and the Department's regulations authorizing a local Town Service Officer to grant GA when state PATH offices are closed. See 33 V.S.A. § 2102 and WAM § 2281. This ignorance, however, does not require the Department to grant a GA application after an emergency need no longer exists. When it filled the petitioner's prescription the pharmacy had no reasonable

assurance or expectation that the petitioner would be eligible for GA. Laudably, it was generous enough to fill the prescription anyway. However, that generosity does not under the regulations require the Department to grant GA after the petitioner's need had, in fact, been met.

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