STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 18,522
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decisions by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying her application for Emergency Assistance (EA) and General Assistance (GA) for a security deposit on her apartment and to prepay co-payments for hospital services. The issue is whether the petitioner is facing an "emergency need" as defined by the pertinent regulations.

FINDINGS OF FACT

1. The petitioner lives with an adult daughter and her daughter's young child. On June 18, 2003 they moved into a Section 8 subsidized apartment. The petitioner's share of the rent on the apartment is $10 a month. The apartment is in the petitioner's name.

2. The petitioner has no income other than GA for personal needs and rent. (It appears that her daughter receives RUFA benefits for herself and her child.) The petitioner has medical coverage under VHAP, and the family

also receives Food Stamps. The petitioner is in the process of applying for disability-based Social Security/SSI and Medicaid.

3. A few days after she moved into her present apartment the petitioner applied for EA and/or GA to pay for a $1,200 security deposit. The Department denied the petitioner's application for EA because she has no dependent children.[1] The Department denied the petitioner's application for GA because rent deposits are not covered under that program and because the petitioner was not facing a "catastrophic situation" as defined in the regulations.

4. As of the date of the hearing in this matter, August 6, 2003, the petitioner was current in her rent but she still owes her landlord $1,200 for the security deposit. The petitioner maintains that her landlord is still demanding the deposit, but she admits he has not taken any legal action against her for its nonpayment.

5. The petitioner alleges that before she moved into her present apartment her worker at the Department told her that the Department would cover her security deposit. She

[1] At or about the same time, the petitioner's daughter also applied for EA and GA. Apparently, the Department also denied this application, and the daughter's appeal of that denial is pending in a separate fair hearing proceeding.

maintains that she would not have moved into this apartment if the Department had not "guaranteed" payment of the deposit. The Department denies that it ever advised the petitioner in advance that she would qualify for EA or GA to cover the deposit.

6. The petitioner has been diagnosed with cancer and has been prescribed certain hospital therapies and medications. Under VHAP the petitioner incurs co-payments for certain medical services. The Department has granted the petitioner GA to cover all her prescription medications, which she cannot obtain without prepayment of her co-payments. However, the Department has denied GA for hospital co-payments because the petitioner does not allege that she cannot obtain any necessary medical services without prepayment of these charges.

ORDER

The Department's decisions is affirmed.

REASONS

As a general matter EA and GA are available only to meet "emergency needs". W.A.M. §§ 2600 and 2800. Under GA: "Deposits or security payments shall not be authorized." W.A.M. § 2613.1. Although deposits are covered under certain

circumstances under EA, the Department denied the petitioner's application for EA because of the following provision:

> Emergency assistance is provided on behalf of a needy child under the age of 21 and any other member of the household with whom he/she is living and of whom the child is considered a "dependent". . .

However, putting aside the question of whether the petitioner (as opposed to her adult daughter) has a "dependent" in her household,[2] the EA regulations authorize the payment of deposits only when "necessary to obtain permanent housing". W.A.M. § 2813.2(b). In this case, even if the Department did tell the petitioner that she could qualify for EA payment of a deposit,[3] the petitioner did not actually apply for it until after she had moved into her new apartment. Although the petitioner may have told her new landlord that the Department would cover the deposit, the fact that the petitioner had already moved into the apartment when she applied for EA clearly demonstrates that actual payment of the deposit was not "necessary" for her to obtain the apartment. Therefore, it cannot be concluded that the

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[2] As noted above, the petitioner's daughter also applied for EA and her appeal of its denial is still pending. It is not clear if the petitioner's daughter, herself, is under 21.

[3] No evidence was taken on this question.

Department is bound under the EA regulations to pay the deposit retroactively.[4]

Under both the GA and EA regulations (W.A.M. §§ 2620 and 2820) payments for medical care can only be made if an individual is facing a "catastrophic situation", which requires, inter alia, that there be an "emergency need". W.A.M. §§ 2602 and 2602.3. In this case, the petitioner does not allege that she is or has been unable to obtain any medical care or treatment. She applied for GA because under her VHAP coverage she incurs a co-payment for some of these services.[5]

The regulations specify that applicants for EA or GA alleging a catastrophic situation "must explore or have explored all alternatives for addressing the need, such as . . . credit". W.A.M. § 2602(3). Thus, it is clear that the incurrance of debt, in and of itself, does not meet the definition of an "emergency need" under the regulations. When and if the petitioner can demonstrate that she is unable to

[4] Admittedly, this begs the question of whether the landlord will seek to evict the petitioner if payment of the deposit is not forthcoming. At this point, however, there is no evidence that he will do so, and the petitioner is free to reapply for EA when and if he ever does.

[5] As noted above, the Department has provided GA for her all her prescription medications.

obtain any necessary medical service, she is free to reapply for GA at that time.

Inasmuch as the petitioner has not shown that she has an emergency need for either retroactive payment of her rent deposit or prepayment of any of her VHAP co-payments, the Department's decisions denying her applications for EA and GA for these expenses must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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