

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,385
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families (DCF) denying his application for Crisis Fuel Assistance to purchase a new furnace for his mobile home. The issue is whether the Department abused its discretion in determining that the petitioner's needs and circumstances were beyond the reasonable limits to and intent of the program.

FINDINGS OF FACT

1. The petitioner lives alone in a mobile home that he purchased in October 2004 after moving back to Vermont from Arizona. The home was in general disrepair, and the petitioner was aware when he purchased it that the furnace was not working. He has since been informed that it needs to be replaced. The cost of replacing the furnace is estimated at \$1,500.

2. The petitioner has been heating his house with electric appliances. Although this is likely to be considerably more expensive than running a furnace, the

petitioner does not allege that portable heating appliances pose a health or safety hazard.

3. On October 12, 2004 the petitioner applied to the Department¹ for crisis fuel assistance. The Department denied this application because of its determination that the petitioner's circumstances were not "unforeseen".

4. The petitioner's income is \$896 a month in Social Security benefits. Because he bought his home outright, he has no mortgage. He has made extensive repairs to the home.

5. The petitioner has been found eligible for regular supplemental fuel assistance benefits. On his application he indicated that his primary heating fuel is oil. Normally, such assistance is dispensed in the form of vouchers to a recipient's designated fuel dealer. At the hearing in this matter, held on November 17, 2004 the petitioner was advised that he can reapply for fuel assistance based on whatever primary heating source he decides to use.²

ORDER

The Department's decision is affirmed.

¹ The Department contracts with the local office of Economic Opportunity to administer the Crisis Fuel Assistance program. See W.A.M. § 2950.

² The petitioner acknowledged that he could probably use gas or kerosene-fueled heaters, in which case he might not necessarily have to change fuel dealers.

REASONS

The discretionary nature of the Crisis Fuel Assistance program is clearly set forth in the following provisions of W.A.M. § 2951:

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 staff, based on their judgment, may grant assistance to households who face a hearing crisis.

In making this judgment staff will consider the individual situation; income, resources, prior applications, and what led to the crisis. Staff shall determine eligibility for crisis assistance based on whether there is an extenuating or unpredictable circumstance. An extenuating or unpredictable circumstance is defined as: death in the family which results in additional expenses to the applicant household; illness of a family member which results in the household incurring additional expenses; an unanticipated work-related expense necessary to preserve employment; extraordinary housing expenses which are required to remove life-threatening hazards or to keep the home habitable; or other unanticipated circumstances or occurrences which could not have been foreseen or prevented by the applicant household.

To make such a determination the department will complete a careful assessment of past income; uses made of income and resources; relative necessity of such uses including consideration of age, health, and other factors having impact on necessity; and adequacy of planning (past and future) to avoid such emergency.

Among the purposes for which the department examines the circumstances that precipitated the fuel emergency and assesses how past income was used are to determine the

likelihood that a similar fuel emergency will recur in the future and the degree to which the fuel emergency was preventable. It is to the benefit of both the applicant and the department to attempt to prevent the recurrence of fuel emergencies.

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 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 addition to the above provisions, the regulations limit payments to the minimum necessary "to avert shut off". W.A.M. § 2956. Moreover, the regulations limit crisis fuel payments for "metered services" to the "most recent monthly billing period" for such service. Id.

In this case, it must be concluded that the Department acted reasonably in determining that replacing the petitioner's furnace was not an unforeseen expense and that the petitioner is not necessarily facing a heating crisis at this time. Therefore, although not replacing the furnace will likely result in higher heating bills for the petitioner this

winter, it was within the discretion of the Department under the above regulations to deny the petitioner emergency assistance to cover this expense. The petitioner is free to reapply for such assistance at any time that he is facing a loss of heat. However, at this time the Department's decision in this matter must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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