

risk to his child. The petitioner furnished a statement from his child's pediatrician that included the following:

(Petitioners) have told me that an infant with recently diagnosed RSV (respiratory syncytial virus) infection resides at their housing placement. Because of (petitioner's child's) age, she is at risk for significant respiratory disease from RSV infection. To limit the likelihood of transmission of virus from the infected infant it would be best if the infant were not present in common areas of the house. If this is not possible to assure, it would be in (petitioner's child's) best interest to be in alternate lodging.

3. The Department represents that when the petitioner provided the above doctor's statement it contacted the shelter and offered to place the sick child and his family in alternative housing to ensure that *nobody* in the shelter was at risk. However, the shelter informed the Department that that child's doctor had told them that the child did not pose a risk to other shelter residents. Thus, the Department denied the petitioner's application for GA for alternate housing.

4. A hearing in this matter was held on April 1, 2005. The petitioner did not dispute any of the Department's representations as to what the shelter had told the Department regarding the other child's condition and risk. The petitioner conceded that the operators of the shelter would not have knowingly placed his child at risk if the

other child had, in fact, had a communicable disease.¹ The petitioner also did not allege the shelter was otherwise unsuitable as temporary housing for him and his family.

ORDER

The Department's decision is affirmed.

REASONS

Inasmuch as there is no dispute in this matter that the family shelter, as a general matter, provides suitable temporary housing for the petitioner and his family (see W.A.M. § 2613.2), the petitioner would be eligible for alternative temporary housing only if he could demonstrate that the shelter posed a risk to his family's health. The GA regulations regarding "emergency medical need" include the following at W.A.M. § 2602.3(A):

An emergency medical need is defined as need for a medical service or item attributable to a medical condition characterized by acute symptoms of sufficient severity, including but not limited to severe pain, such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of medical attention to result in the following:

- serious jeopardy to the health of the participant;
- serious impairment to bodily functions; or
- serious dysfunction of the bodily organ or part.

¹ As of the date of the hearing, over a week had gone by and the petitioner's child had not become ill.

Prior to issuing a vendor authorization for covered physician services, vision services and items, medical supplies, durable medical equipment, or ambulance services, eligibility workers shall obtain a determination from the Office of Vermont Health Access (OVHA) that such services or items address an emergency medical need (as defined in subsection A or B) or addressed such a need at the time the services or items were provided.

In this case, the petitioner did not demonstrate that staying in the shelter, in fact, posed a medical risk to anyone in his family. It is clear that the Department acted reasonably and promptly in response to the petitioner's allegations. It is also clear that the letter from the petitioner's child's doctor was based solely on the petitioner's allegations regarding the other child. Although the petitioner's concerns for his child's health were certainly reasonable, it cannot be concluded that they were based on any medical risk that actually existed. Therefore, the Department's decision must be affirmed.² 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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² The Department's denial of GA was also based on information it had regarding the petitioner's financial resources. However, the question of these resources is pertinent to another pending fair hearing involving the petitioner, and it need not be addressed in order to affirm the Department's decision in the instant matter.