

**STATE OF CONNECTICUT
DEPARTMENT OF HOUSING**

In the Matter of:)
)
Declaratory Ruling Concerning)
State of Connecticut Rental)
Assistance Payments Program) January 13, 2023
)
)

DECLARATORY RULING

I. Procedural Background

On November 16, 2022, the Department of Housing (“DOH”) on its own motion initiated a proceeding for a declaratory ruling as to the applicability to specific circumstances of provisions of the general statutes and regulations governing the State of Connecticut Rental Assistance Payments (“RAP”) Program. Specifically, On November 16, 2022, DOH issued a Notice and Order stating that DOH would issue a declaratory ruling limited to the following questions:

- Is a RAP participant whose request to transfer a RAP certificate for use in connection with a dwelling unit outside the State of Connecticut is denied entitled to an administrative hearing pursuant to Regulations of the State of Connecticut (“RCSA”) § 17b-812-14?
- Under the relevant statutes and regulations, can a RAP subsidy be used in connection with a dwelling unit outside the State of Connecticut?

II. Statement of Facts

1. On September 20, 2022 a participant in the RAP program sent an e-mail to her RAP caseworker at J. D’Amelia & Associates LLC (“JDA”), which administers the RAP program on behalf of DOH, requesting that her RAP certificate “be transferred to another State.”
2. At no time did the participant submit a specific unit either within or outside the State of Connecticut for consideration or approval by JDA.

3. On September 20, 2022, JDA Program Manager Michelle Molina responded to the participant, stating that her RAP certificate is only good in the State of Connecticut and cannot be transferred outside the State.
4. On September 20, 2022, the RAP participant requested that JDA send her a hearing form to request an official hearing on the matter.
5. On September 21, 2022, JDA sent the participant a letter denying her request, stating “State of Connecticut RAP Certificate is not transferable outside CT. RAP is a State funded program and can be used in all 169 cities/towns within Connecticut.”
6. The September 21, 2022 letter from JDA stated “[i]f you dispute this decision, you may request an administrative hearing to resolve this dispute,” and attached a Hearing Request Form.
7. On September 23, 2022 the participant submitted a Hearing Request Form challenging the denial of the transfer of her RAP certificate outside Connecticut.
8. On September 28, 2022 the DOH issued a Notice of Administrative Hearing scheduling a hearing to address the denial of the transfer of the participant’s assistance out of state to take place on October 19, 2022.
9. On October 19, 2022 a hearing was commenced with the participant, her JDA caseworker, the JDA supervisor and the DOH hearing officer. The hearing was adjourned without addressing the merits of the issue in light of procedural issues raised by the participant.

III. Analysis

A. There is No Right to an Administrative Hearing Under the RAP Program to Contest Determination That RAP Certificate Cannot be Transferred Outside Connecticut

A RAP participant is entitled to an administrative hearing only in cases where there has been a decision by DOH or its agent to change the terms of assistance or to discontinue assistance to the participant.

Section 8-345(h) of the Connecticut General Statutes (“CGS”) governing the RAP program states that “[a]ny person aggrieved by a decision of the commissioner or the commissioner's agent pursuant to the program under this section shall have the right to a hearing in accordance with the provisions of section 8-37gg.” RCSA Section 17b-812-14(a) states that any person aggrieved by a decision of the commissioner or commissioner’s agent pursuant to the

program may request an administrative hearing in accordance with the provisions of section 17b-60 on the Connecticut General Statutes.¹ The Regulation specifically provides that program participants must be given written notice of “a decision to change the terms of assistance or to discontinue assistance to a participant,” along with information about how to request an administrative hearing under such circumstance. RCSA § 17b-812-14(a).

The legislative history confirms that the statute providing for a right to a hearing in connection with the RAP program was intended to be available only in such circumstances. When CGS § 17b-812 was amended in 2009 to add the provision allowing a person aggrieved by a decision pursuant to the program a right to a hearing, it was asked by one legislator “what kind of decisions are these hearings putting forth that one might want to, you know, make an appeal of or challenge?” In response, the proponent of the bill seeking its passage stated, “those individuals would be individuals whose assistance is denied, modified or terminated.” Connecticut House Transcript, May 27, 2009, page 130. *See also* OLR Bill Analysis, 2009 Senate Bill 817, May 19, 2009 (“Under the bill, an individual whose assistance is denied, modified, or terminated may request a department hearing in accordance with UAPA [Uniform Administrative Procedures Act] and, if still not satisfied, can appeal to Superior Court.”)

The Administrative Plan for the Rental Assistance Program, July 1, 2019 (the “Admin Plan”) establishes policies for the administration of RAP in a manner consistent with state regulations and is designed to explain and elaborate upon the Regulations governing the Rental

¹ In 2013, pursuant to Public Act 13-234, the RAP program was transferred from the Department of Social Services (“DSS”) to DOH and the statute governing the program was transferred from CGS § 17b-812 to CGS § 8-345. In 2015, CGS § 8-37gg was adopted to establish “the same procedures and deadlines for administrative hearings within the Department of Housing as procedures currently adopted within the Department of Social Services.” 2015 CT S.B. 891, Housing Committee Report. *See also* OLR Bill Analysis, 2015 Senate Bill 891, May 12, 2015 (“to establish[] in statute the same hearing and appeals procedures for ODH as the law establishes for DSS”).

Assistance Program. It is publicly available on DOH's website at <https://portal.ct.gov/-/media/DOH/2019-RAP-Admin-Plan.pdf?la=en>. The Admin Plan provides additional guidance in the implementation of the relevant Regulations set forth above in the Conclusions of Applicable Law.

Consistent with the statute and Regulations, the Admin Plan provides that administrative fair hearings are provided for program participants where there are changes in terms or denial of continued assistance. (Admin Plan at 18-2). It identifies those determinations that relate to a participant's subsidy – specifically determinations of the family's annual or adjusted income and the computation of their rental assistance payment, that the appropriate utility allowance is being used, of the family unit size, that the family is over housed in their current unit and a request for exception is denied, and to terminate assistance for any reason. (Admin Plan at 18-2 to 18-3). Under the Admin Plan, administrative fair hearings are not required for any determination relating to established policies and procedures, general policy issues or a determination not to approve a unit. (Admin Plan at 18-3).

The statutes and Regulations governing the RAP program, as well as the agency's policies and procedures, do not require a hearing in response to the denial of a general request to transfer a certificate for use outside the State of Connecticut.²

B. A RAP Certificate Cannot Subsidize a Unit Outside the State of Connecticut

RAP is a State of Connecticut program, wholly funded by State and NOT federal funds, and administered within the scope of state statutes, Regulations and budgeting. There is no

² In the case giving rise to this Declaratory Ruling, a hearing was initiated as a courtesy, to ensure the participant had an opportunity to be heard. In light of more extensive consideration due to the objections and concerns raised by the participant, it became clear that no hearing was required, and that the meeting convened on October 19, 2022 constituted an informal, on-the-record discussion rather than an administrative hearing.

jurisdiction to operate the program outside the State of Connecticut, and DOH and its administrator are not permitted to do so under the laws and Regulations governing the program.

Section 8-345 of the Connecticut General Statutes provides for the Commissioner of Housing to implement and administer a program of rental assistance for low-income families living in privately-owned rental housing. It provides that a low-income family is one whose income does not exceed fifty per cent of the median family income for “the area of the state in which such family lives.” C.G.S. § 8-345(a). The statute sets forth that “[a]ny certificate issued pursuant to this section may be used for housing in any municipality *in the state*.” C.G.S. § 8-345(e) (emphasis added).

Regulations promulgated in connection with the RAP program define “eligible family” to be a “household consisting of one or more persons, with income that does not exceed fifty per cent (50%) of the median family income *for the area of the state* where the family lives.” RCSA § 17-b-812(1)(10) (emphasis added). In addressing eligible housing under the RAP program, the Regulations state, “[a] family with a rental assistance certificate is responsible for finding a dwelling unit *within the state* that suits the needs of the family.” RCSA § 17b-812-7(b).

In its description of the RAP program, the Admin Plan states that the program, “created by legislation in 1985 through Substitute Senate Bill No. 883, is intended to supplement the Federal Section 8 Housing Program (now known as the Housing Choice Voucher Program) . . . While modeled on the Housing Choice Voucher Program, RAP differs from that program in some respects.” (Admin Plan at 1-1). It states that the jurisdiction of the program “covers the entire state of Connecticut.” (Admin Plan at 1-1).

With respect to the operation of the program, the Admin Plan provides that in order to be eligible for assistance, “a household’s income must not exceed fifty (50) percent of the median

family income for the *area of the state in which such family lives,*” (Admin Plan at 2-2) (emphasis added), and that after families are issued a certificate, they “may search for a unit anywhere *within the jurisdiction of the program.*” (Admin Plan at 9-1) (emphasis added). The program allows families to “move with continued assistance to another unit *within the program’s jurisdiction.*” (Admin Plan at 13-1) (emphasis added). As set forth above, the jurisdiction of the program is the State of Connecticut.

As reflected in state budget, the RAP program is paid for exclusively with state funds. The program does not receive any federal funding, nor does the United States Department of Housing and Urban Development (“HUD”) or any other federal agency have any oversight or purview over the program.

Based on the language of the statute, Regulations and Administrative Plan as well as the source of funding for the program, the RAP program is limited to the State of Connecticut and a RAP subsidy cannot be used in connection with a subsidized housing unit outside the State.

IV. **Conclusion**

In light of the foregoing determinations that a participant is not entitled to an administrative hearing in connection with a request to use her RAP subsidy outside the State of Connecticut, and that a RAP certificate cannot be used outside the State, JDA’s determination that the RAP participant could not transfer her subsidy outside the State of Connecticut was valid and appropriate.



Seila Mosquera-Bruno
Commissioner