

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Joe Ann Porter,
Petitioner

Docket No. VS-22-0181

February 27, 2025

v.

Executive Office of Veterans' Services
(f/k/a Dep't of Veterans' Services),
Respondent

Appearances:

For Petitioner: Joe Ann Porter, pro se.

For Respondent: Alexandra Ford, Esq.

For Southbridge Dep't of Veterans' Services: Keith Roberts.

Administrative Magistrate:
Mark L. Silverstein

SUMMARY OF DECISION

Veterans' Benefits - M.G.L. c. 115 - Eligibility - Dependent spouse of deceased veteran - Benefits reduction based upon insufficient proof of residence and shelter and fuel expenses - Dismissal of petitioner's appeal upon parties' joint motion - Mootness.

Petitioner, the surviving spouse of a disabled United States Navy veteran, appealed a decision of the Massachusetts Department of Veterans' Services (DVS; now, the Executive Office of Veterans' Services, EOVS) affirming the reduction of her monthly M.G.L. c. 115 veterans' benefits by the Town of Oxford Veterans' Services Officer for insufficient proof of her residence, or her rent and fuel expenses. Upon the parties' joint motion to dismiss based upon Ms. Porter's receipt of Chapter 115 benefits since 2022 in two other towns, initially Charlton and currently Southbridge, the appeal is dismissed as moot without prejudice to Ms. Porter's continued receipt of benefits in Southbridge.

DECISION - ORDER OF DISMISSAL

Background

a.

M.G.L. c. 115 provides a needs-based form of public assistance to eligible veterans and their dependents whose income is insufficient for self-support, including being able to pay shelter and heating expenses. *See McConnell v. Dep't of Veterans' Services*, Docket No. VS-16-275, Decision at 10-11 (Mass. Div. of Admin. Law App., Aug. 11, 2017); *French v. Dep't. of Veterans' Services*, Docket No. VS-12-75, Decision at 11-12 (Mass. Div. of Admin. Law App., Sept. 26, 2012). The Chapter 115 benefits program is administered by the Executive Office of Veterans' Services (EOVS; formerly the Department of Veterans' Services, DVS). Applications for Chapter 115 benefits are processed by the Veterans' Services Officers (VSOs) of the Commonwealth's municipalities. The local VSO of the town or city in which a veteran or veteran's dependent seeking Chapter 115 benefits resides prepares a "budget" showing the applicant's financial needs in categories such as shelter and fuel. In doing so, the VSO considers the value of the applicant's assets, as well as the applicant's income from all sources including Social Security benefits. *See* 108 C.M.R. §§ 5.01 and 5.02 (sections of the Chapter 115 regulations governing the reparation of "budgets" for a benefits applicant); 108 C.M.R. §§ 5.01(3) and 6.01(3) (as to income offsets to a Chapter 115 applicant's needs-based budget); and 108 C.M.R. § 6.01(3) (defining "alternative sources of income"); *see also Stoughton Dep't of Veterans' Services v. Dep't of Veterans' Services*, Docket No. VS-10-311, Decision at 9 (Mass. Div. of Admin. Law App., Jul. 17, 2012).

As EOVS continues to do, DVS reviewed each Chapter 115 benefits application approved by local VSOs, including the applicant's need for the benefits approved. As to the approvals with which it did not disagree, DVS generally recommended that the Commonwealth reimburse up to 75 percent of the approved amounts of veterans benefits paid by each city or town. *See* M.G.L. c. 115, § 6. As do EOVS hearing officers, DVS hearing officers heard appeals by Chapter 115 benefits applicants or recipients from "any action taken" by a VSO, including

benefits denials or reduction. *See* 108 C.M.R. § 8.07(1) and (2). Hearing Officer decisions on those appeals were, and remain, appealable to the Division of Administrative Law Appeals (DALA). *See* 108 C.M.R. § 8.07(3).

b.

Through early January 2020, Ms. Porter received a \$758 monthly Chapter 115 benefits payment as the surviving spouse of a disabled United States Navy veteran living in the town of Oxford, Massachusetts. Ms. Porter's continued receipt of Chapter 115 benefits in Oxford required recertification of her benefits eligibility by the local VSO each January, including confirmation that she continued to reside in that town.¹ During his January 2021 review of Ms. Porter's benefits for recertification purposes, the Oxford VSO determined that Ms. Porter was living in a building that had been foreclosed upon and had become uninhabitable. *See Order Following Prehearing Conference* (June 10, 2022) at 2-3. On January 19, 2021, he requested that Ms. Porter document her continued residence as well as her rent and, if they were not included in her rent, her fuel expenses. When the VSO received nothing from Ms. Porter, he requested that the Oxford Police Department conduct a wellness check. In doing so, the Oxford police found that neither Ms. Porter nor anyone else was present at the building where she claimed to be living. *Id.*

The VSO asked Ms. Porter to respond to the police wellness check report and again asked that she provide proof of her Oxford residence. On March 26, 2021, having received no response from Ms. Porter, the Oxford VSO issued a notice of action terminating her Chapter 115 benefits. He withdrew this notice afterward, to give Ms. Porter additional time to provide the information

^{1/} A veteran or dependent eligible for Chapter 115 benefits must apply for them in the city or town where he or she resides. *See* M.G.L. c. 115, § 5; *see also* 108 C.M.R. § 2.02 (defining "reside."). The VSO must determine that residence. *See* 108 C.M.R. § 3.01(1).

he had requested; and Ms. Porter continued to receive a \$758 monthly Chapter 115 benefits payment. *Id.* Because she provided no documentation of her residence or her rent and heat expenses, however, the Oxford VSO issued a Notice of Determination on June 22, 2021 reducing Ms. Porter's monthly Chapter 115 benefits payment to \$101, after deleting its rent and fuel components.

Ms. Porter timely appealed Oxford DVS's action to DVS. A DVS hearing officer held a hearing on September 22, 2021. During the hearing, Ms. Porter testified that she no longer resided at the building in question and was living with a friend, but she declined to provide the friend's address. *DVS Decision*, Apr. 22, 2022, at 6-7. Ms. Porter also declined to give an address to which the hearing officer could mail her decision, although the parties agreed that Ms. Porter would pick up a copy of the decision at the Oxford DVS once the VSO had called Ms. Porter to let her know he had received it. *Id.*

The DVS hearing officer issued her decision on April 20, 2022. Having found insufficient evidence that Ms. Porter resided in Oxford and was paying rent or shelter in that town, the hearing officer affirmed the reduction of Ms. Porter's monthly Chapter 115 benefit to \$101. *Id.*

Ms. Porter timely appealed the DVS Decision to the Division of Administrative Law Appeals (DALA). I began a prehearing conference by telephone on June 9, 2022, with Ms. Porter, the Oxford VSO, and DVS participating. I did not conclude the conference because the parties needed time to pursue a possible agreement resolving this matter and, as well, Ms. Porter's eligibility to continue receiving Chapter 115 benefits in Oxford. The Oxford VSO was assisting Ms. Porter in attempting to find a habitable residence, including an Oxford Housing Authority apartment or a trailer park unit. I ordered a schedule for reporting the status of settlement efforts beginning on July 12, 2022 and continuing monthly afterward. *See Order*

Following Prehearing Conference Report (Jun. 10, 2022) at 5-6.

Through the summer of 2022, the Oxford VSO continued to work with Ms. Porter in attempting to locate a permanent living arrangement before the arrival of cold weather. As of mid-October 2022, Ms. Porter had moved into a rental unit in Charlton, Massachusetts, and the Charlton VSO had taken over administering her M.G.L. c. 115 benefits. The Oxford VSO was awaiting a copy of Ms. Porter's signed lease for her Charlton rental unit so that he could issue checks to pay the first and last month's rent and the security deposit. The Charlton VSO was recomputing Ms. Porter's monthly Chapter 115 benefits amount (including rent and heat-related benefits) based upon her monthly income, including Social Security benefits and any pay she was receiving for working. He was also attempting to resolve whether three insurance policies naming Ms. Porter as beneficiary would be considered as an asset in computing Ms. Porter's monthly benefits amount.

Ms. Porter's relocation to Charlton, and the Charlton VSO's recomputation of her monthly Chapter 115 benefits eligibility, suggested that her residence and Chapter 115 benefits eligibility had been resolved and that this appeal might have become moot. On December 27, 2024, I issued an order directing the parties to report whether this was indeed the case and, as a result, whether this appeal could be dismissed as moot without prejudice to Ms. Porter's current Chapter 115 benefits eligibility as a Charlton resident or to the benefits she was currently receiving.

On January 17, 2025, the parties filed a signed joint motion to dismiss. The motion advised that in late 2023, Ms. Porter had moved to and remained at her adult daughter's residence in Southbridge, Massachusetts, and had been receiving Chapter 115 benefits via the

Southbridge Department of Veterans' Services since that date.² Since having first relocated to Charlton in mid-October 2022, Ms. Porter had received Chapter 115 benefits without interruption. In addition, the parties reported that Ms. Porter had been recertified as eligible to continue receiving Chapter 115 benefits in the amount of \$947.50 per month through July 2025. The parties stated that they "consider[ed] the instant matter to be resolved," and requested that the appeal be dismissed.

Disposition

For the reasons the parties presented in their joint motion to dismiss, there remains nothing further for DALA to adjudicate with respect to the DVS Decision that Ms. Porter appealed here. Accordingly, this appeal is dismissed for mootness, pursuant to 801 C.M.R. § 1.01(7)(g)3. Ms. Porter's relocation from Oxford to Charlton and then to Southbridge resolved all prior issues regarding her residence and related expenses, including rent and fuel. The District Director handling her Chapter 115 benefits case for both Charlton and Southbridge confirmed Ms. Porter's eligibility to receive monthly benefits as a Southbridge resident, in the amount she receives now, through July 2025. As the parties requested jointly, the dismissal of Ms. Porter's appeal for mootness is without prejudice to Ms. Porter's continued receipt of those benefits payments through that month.

In dismissing this appeal as moot, I acknowledge the parties' efforts over several years to resolve Ms. Porter's homelessness and preserve her eligibility to receive Chapter 115 benefits as the surviving spouse of a disabled veteran. In particular, I note the continuing work by the Oxford VSO and the Southbridge and Charlton District Director of Veterans' Services to ensure

²/ District Director of Veterans' Services Keith Roberts has handled Ms. Porter's benefits case for both Charlton and Southbridge since at least 2022.

that in terms of receiving the benefits made available by Chapter 115 and for which she qualified as the surviving dependent of a disabled veteran, Ms. Porter, was, per United States Armed Forces creed, “never left behind.”

SO ORDERED.

This is a final decision. The parties are hereby advised that: (1) pursuant to M.G.L. c. 115, § 2, further review of the decision may be had by any party upon application made to the Governor and Council within ten days after receipt of the decision; (2) whether or not an application for further review is made to the Governor and Council, the decision of the Division of Administrative Law Appeals, or the decision of the Governor and Council if an application for further review is made, is subject to judicial review in accordance with the provisions of M.G.L. c. 30A, § 14; and (3) any such appeal must be instituted within 30 days of receipt of such decision and filed with the Superior Court Department of the Trial Court.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Mark L. Silverstein

Mark L. Silverstein
Administrative Magistrate

Dated: February 27, 2025