

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9975
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department of Social Welfare's decision to terminate her from the "Reach-Up" program.

FINDINGS OF FACT

1. The petitioner is an ANFC recipient who volunteered to participate in the Department's "Reach-Up" program in January of 1988. This program gives assistance with work-related expenses and social services (which can be handled within the Department) in order to help make a participant job-ready. It is a small program which maintains a waiting list.

2. Initially, the petitioner was assigned to work with a reach-up advisor in the Department of Social Welfare and signed a "Reach-Up Contract" which is attached hereto as Exhibit No. 1 and incorporated by reference. A "Reach-Up Plan" was agreed to which is attached hereto as Exhibit No. 2 and incorporated by reference. The petitioner had been laid off from her last job (she had worked in factories and day care), was hoping to get out of minimum wage jobs and was looking to train for something in the printer's trade.

3. Although she was the mother of a new infant, by

September of 1989, the petitioner had attended career counseling and assessment courses, got her driver's license and attended a weight watcher's class which she dropped out of after a short time. In December of 1988, she got a job in retail sales which she did not report to on the first day due to illness which she immediately lost. She got no further job until almost nine months later. For its part, the Department paid for various personal appearance items, legal fees relating to the petitioner's divorce, clothing, transportation, housing relocation, her driver's license, car registration, and child care through November of 1989.

4. Attempts to investigate a career in printing were dropped by the petitioner and new investigations were subsequently begun in dental assisting, volunteer work and the travel industry, all of which the petitioner shortly abandoned. This was partly due to her involvement with her new infant who had some health problems and her own health problems which included "a knee affliction" which kept her from climbing stairs.

5. In September of 1989, the petitioner got a job as a store clerk, which employment the Department supported by continuing to pay for child care, car repairs and clothing.

The Department also agreed to help the petitioner investigate a beautician career and scheduled a trip to a beauty school which was cancelled by the petitioner. Subsequently, the Department referred her to a "Futures Group" training program which the petitioner did not attend

and at her request bought her a Tupperware Sales Kit which the petitioner apparently never employed to earn money.

6. In November of 1989, because the petitioner had been employed for two months as a store clerk, it was felt that she was now "job ready" and that she should be transferred to the "Reach-Up" section of the Department of Employment and Training which helps people who are in the early stages of re-employment. She bought a car and was assisted by the DET in paying for registration, insurance and repairs.

7. The petitioner thereafter left her job at a large grocery store and went to work in a small market. She lost that job after one month for absenteeism. She had a great deal of difficulty keeping her car running and it was finally stolen. She got another job as a chambermaid at a ski resort which she left after one month in January of 1989. She did not work thereafter until July of 1990 when she spent two days delivering newspapers. (A job which was not encouraged by the Department.) During this period, the Department assisted her with housing relocation (by waiving a financial maximum which she had reached in this area), transportation to work and job interviews, and child care. She was also referred to several job openings and went on two interviews which did not result in employment.

8. In May of 1990, the petitioner's worker, concerned that emotional problems might be interfering with her ability to obtain and maintain employment, referred her to

mental health counseling and Vocational Rehabilitative Services. The petitioner refused to attend such services.

9. On June 12, 1990, the petitioner and her DET "Reach-Up" worker established a new plan which is attached hereto as Exhibit No. 3 and incorporated by reference. The petitioner enrolled in, but did not attend, the Employment Search Workshop. An appointment was again made in June, 1990 to visit the hair design school but the petitioner backed out once again due to a child care problem. She eventually rescheduled that appointment and was accepted into the hairdressing school. Her worker referred her to VSAC for tuition assistance but balked at providing further "Reach-Up" assistance with the schooling.

10. The petitioner thereupon asked for a review of her case. Both her DET and DSW "Reach-Up" workers and their supervisors met and decided that the Department had no further resources with which to help the petitioner financially or professionally. It was felt that the petitioner was overwhelmed by problems with her children, her health, transportation, day care, and housing which the "Reach-Up" program in spite of considerable intervention and expenditures had been unable to remedy. Her workers were concerned that at root she may have emotional problems which were presenting barriers which the Department was unable to deal and had been unsuccessfully referred to mental health.

A joint decision was made to close her "Reach-Up" case. On July 26, 1990, the petitioner was sent a letter closing her

case which is marked as Exhibit No. 4 and attached hereto and incorporated by reference.

11. The program has a financial matrix which limits the amount spent by a category. At the time of the closure, the petitioner was at or close to the limit for transportation, clothing and her monthly stipend. A total of \$3,900.00 had been spent on assistance to her.

12. Subsequent to the closing decision, her worker indicated that she might be willing to give her further services if she got involved in counseling, but only on a probationary basis.

13. The petitioner claims that she was in counseling while at Reach-Up but presented no evidence of that fact. She says she is ready for this hair-dressing training program, has lined up a baby-sitter and a car (she will have to drive over thirty miles each way to school) and has relocated to a better housing situation.

14. The Department has estimated that costs related to the training proposed by the petitioner (transportation, child care, uniforms) will be close to \$6,000.00. They are unwilling to put out that money under the present circumstances for all the reasons listed above.

ORDER

The Department's decision is affirmed.

REASONS

The "Reach-Up" program is a supplement to the Department's WIN-program. In general, it is a state-run

training-oriented job program designed to enhance the employability of ANFC recipients.¹ The Department, in cooperation with the Vermont Job Service, designs "employment plans" for Reach-Up participants. Participants then enter into "contracts" with Reach-Up setting forth specific vocational goals and the "steps" needed to achieve them. When appropriate, Reach-Up can agree to provide funding for specific training and other training-related "services". The Reach-Up program exists and is operated solely through "procedures" developed by the Department. Apparently, there are no regulations governing the creation and administration of the program. However, according to its written "procedures":

- h. The case manager commits DSW to locate and obtain funding for the necessary services in order to complete the client's Employment Plan. The following conditions must be met making this commitment.
 - 1) The services must be necessary for the client to participate in Reach-Up and obtain employment;
 - 2) The services must be available for the purpose; and
 - 3) Funds must be available for the purpose; and
 - 4) The service must be available at a time suitable for the client to participate in Reach-Up.

Procedures Manual § P 2340N.(h).

There is nothing in the procedures which creates a standard by which to measure continued eligibility for the

program other than "good cause". The issue becomes, then, whether the Department had "good cause" for terminating services to the petitioner.

There is ample evidence that the petitioner failed to meet the goals set up in the plan because she did not follow through with the requirement that she work part-time while investigating long-term employment. For a number of reasons, the petitioner did not (or perhaps could not) follow through with even part-time employment. None of her failure in this regard is attributable to the Department which provided generously of support services for these endeavors. There is also little evidence that the petitioner, at least until last summer, was actually interested in researching a long term training goal and failed to attend almost all training programs offered by the Department. The Department probably had "good cause" for terminating the petitioner many times along the way but, to its credit, stuck with the petitioner and continued to provide services.

It is somewhat puzzling that given her relative lack of success and the large amount already expended that the petitioner was provided with a new "Reach-Up Employability Development Plan" in June of 1990 which specifically included "following up with hairdressing school." After one failed attempt, the petitioner apparently did follow through with this goal and decided to enroll. However, she has not followed through with any of her other new goals which

include attending a job seeking skills workshop and continuing to look for short-term jobs. Those continued failures justifiably give the Department cause for concern that the petitioner will not or cannot follow through with her plans and that any more money it might spend would not result in making her any more employable than she is now. It must be concluded, therefore, that the Department had good cause to terminate the petitioner's participation.

Under the "Reach-Up" procedures outlined in her contract, the petitioner may reapply in ninety days. The Department has indicated its willingness to assist her again if she becomes involved in mental health counseling. However as this program has been replaced by a new program with specific rules and regulations, the petitioner is referred to the Department for further information on her future eligibility under that program.

FOOTNOTES

¹The current Reach-Up program was replaced by a new "Reach-Up" program on October 1, 1990, which is this state's "Job Opportunities and Basic Skills Program (JOBS) as required by Section 201(a), the Family Support Support Act of 1988. See 45 C.F.R. § 250, W.A.M. § 2340-2344.

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