

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 10,609  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare to deny her participation in the Reach-Up program due to her alleged ability to support her family at a level matching 125% of the federal poverty guidelines.

FINDINGS OF FACT

The parties have stipulated to the following facts:

1. [Petitioner] is a recipient of Aid To Needy Families With Children (ANFC) from the Vermont Department of Social Welfare (hereafter, Department).

2. [Petitioner] began receiving ANFC benefits in November 1987 at the age of 20 years old.

3. [Petitioner] receives benefits on behalf of herself and her 5 year old daughter, [name], in the amount of \$567.00 per month.

4. The Department is currently not receiving any child support payments from the Absent Parent in [petitioner's] case.

5. [Petitioner] does not have any past work experience as an adult.

6. Prior to beginning her post-secondary schooling,

on January 6, 1988, [petitioner] applied for support services from the Reach Up Program pursuant to an Educational Plan.

7. [Petitioner] began her post-secondary education by taking business courses at the Essex Educational Vocational Center from 3/1/88 to 5/31/88.

8. [Petitioner] received an Associates degree in General Business from Champlain College in May of 1991.

9. [Petitioner] is currently a full time Bachelor of Science degree student at Trinity College in the Business Administration Program. She began her program in January of 1991 and is due to graduate in May of 1993.

10. Reach Up provided [petitioner] with payment for day care expenses, transportation costs, books and clothing as follows:

	Fall	Spring	Fall	Spring	Fall	Spring
Fall	1988	1989	1989	1990	1990	1991
1991						
Child Care	\$328.68	\$770.00	\$441.00	\$172.50	\$982.00	\$1,225
	\$1,226					
Transp.	\$ 78.62	\$ 47.00		\$200.00		
Educ. Support		\$125.00	\$ 15.00		\$148.00	
Supplies			\$100.00			

11. On July 10, 1991, [petitioner] received a notice stating,

Your participation in Reach Up has been denied/terminated because, you have already

completed educational or vocational training which has prepared you for an occupation that will provide earnings which when added to other family income exceeds 125% of the poverty level.

12. A timely appeal was filed by [petitioner] on 7/15/91.

ORDER

The Department's decision is reversed.

REASONS

The Department does not deny in its stipulation nor argue that the petitioner was not a recipient of Reach-Up services at the time she received the July 10, 1991 notice.

In fact, it appears that she has continued to receive those services through the fall of 1991. The facts indicate that on July 10, 1991, the Department attempted to terminate her participation in Reach-Up based on the 125% rule. Under the Board's Rules, the Department bears the burden of showing that a person once found eligible for services is no longer eligible, for whatever reason is claimed. Fair Hearing Rule No. 12.

In this matter, the Department claims the petitioner can earn income equal to 125% of the federal poverty guideline making her ineligible under W.A.M. . 2340.2(2). However, there was no evidence presented in the stipulation to support that assertion. There is no regulation or rule which allows the finder of fact to presume the ability of a person to earn a certain income based upon the completion of any training or college course of study. Admissible and

competent evidence must be put forth on that issue. Without such evidence, the Department's proposal to terminate the petitioner cannot be upheld. Fair Hearing No. 10,259. Therefore, it is not necessary to consider the petitioner's other arguments regarding her eligibility for continued services.

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