

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,519
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare to reduce her ANFC income based upon the receipt of unemployment compensation by her minor child.

FINDINGS OF FACT

1. The petitioner applied for ANFC in July of 1992 for herself and her two teen-aged daughters. At that time, both she and her oldest daughter were receiving unemployment compensation. The petitioner reported that her own unemployment compensation was about to end. Although the petitioner's daughter continued to receive \$75.00 per week in unemployment compensation, through some error it was either not reported or reported and not counted when the petitioner's ANFC grant was figured. The petitioner was mistakenly granted \$600.00 per month in benefits.

2. About a month later, the Departmental employee who handles the petitioner's benefits learned through a computer check that the petitioner's daughter was still receiving unemployment compensation checks and was expected to receive five \$75.00 checks in October. Based on that information, the petitioner was sent a notice on September 17, 1992 informing

her that her ANFC grant would be reduced to \$225.00 on October 1, 1992, based on the family's receipt of \$375.00 in unearned income.

3. The petitioner does not dispute that her daughter has been receiving unemployment compensation of \$75.00 per week (although she believes that her daughter's benefits have just run out). She asks that the money not be counted as income to the family because her daughter is only sixteen years old, a full-time high school student, and uses that money to meet her own needs for clothing and supplies.

ORDER

The Department's decision is affirmed.

REASONS

The regulations of the Department of Social Welfare require that "[a]ll income except that specifically excluded shall be evaluated to establish net income available to meet need." W.A.M. § 2250-2259. The regulations do specifically provide for the exclusion of earned income as follows:

Earned income of an eligible child if the child is a full-time student. Earned income of an eligible child if the child is a part-time student, but not employed full-time. A student is a person who is enrolled in a school, college, university, or a course of vocational or technical training designed to fit him or her for gainful employment. The school or institution shall make the determination of the student's status as full-time or part-time (i.e. less than full-time). A full-time employee is one who is employed 100 or more hours per month.

When comparing gross earned income with 185 percent of the need standard to determine eligibility, this

exclusion applies only to full-time students and for a period not to exceed 6 months in any given calendar year. [Retroactive to June 1, 1984]

W.A.M. Ɂ 2255.1(13)

If the sixteen year old's income were earned income, clearly it would not be included in the family's countable ANFC income. However, unemployment compensation is clearly defined in the Department's regulations as unearned income:

Unearned income includes the following:

- A. Income from pension and benefit programs, such as Social Security, Railroad Retirements, veteran's pension or compensation, Unemployment Compensation, employer or individual private pension plans and/or annuities, etc. ...

W.A.M. Ɂ 2252

As unemployment compensation is unearned income, there is no specific exclusion of it under the Department's regulations. As set forth above, income which is not specifically excluded, must be included in determining family income. Therefore, the Department acted correctly in including the child's unearned income which resulted in the reduction in the petitioner's ANFC grant.

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