

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,338

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating her ANFC benefits based on excess family income. The issue is whether the Department correctly included the income of one of the petitioner's grandchildren's father in calculating the family's eligibility for benefits.

FINDINGS OF FACT

The petitioner is the legal guardian of her daughter's two children. The children have different fathers. The children's mother does not reside in the household.

Prior to December, 1994, the petitioner received an ANFC grant for the two children. Because the petitioner is not legally responsible for the children's financial support, the petitioner's needs and income were not included in computing the children's ANFC benefits.

In December, 1994, the father of one of the children moved into the petitioner's home. The father works full time. The petitioner sought to have the child whose father was present removed from the other child's ANFC grant. The Department refused; and determined that not only must both children remain on the grant, but also that the father must be included as well. When the father's income was considered, the Department determined that he and both of the children were ineligible for ANFC.

ORDER

The Department's decision is affirmed.

REASONS

W.A.M. § 2242 provides as follows:

An "assistance group" is defined as one or more individuals whose requirements, income and resources are considered as a unit to determine need for ANFC.

An ANFC assistance group must include one or more eligible dependent children. In addition, the assistance group must include all siblings (including half-siblings) who live with the dependent child or children, who meet one of the deprivation factors according to WAM 2330-2339 and who qualify under the ANFC age criteria, as defined in policy.⁽¹⁾ If the family assignment is Group 2 or 3, a child is considered an eligible dependent child under the unemployment deprivation factor, even if one or both parents are employed full time. The parent(s) of each child included in the ANFC assistance group must be

included in the ANFC assistance group if he or she lives in the home with the children.

Under this regulation both children and one child's father must be included in the assistance group as long as the father is living in the home with both children. Inasmuch as the Department's decision to include both the petitioner's grandchildren and one grandchild's father in the ANFC group, as well as the father's income, is consistent with the above regulations the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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1. Eligibility for ANFC requires establishing that a child is deprived of parental support or care for one of the following reasons and that the income and resources available to the parent in custody of the child and the

child are insufficient to meet the child's total needs according to Department standards:

1. Death of a parent;
2. Continued absence of a parent;
3. Physical or mental incapacity of a parent;
4. Unemployment - (ANFC-UP).

W.A.M. § 2330