

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,667

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her ANFC benefits. The issue is whether the father of the petitioner's children must be included in the petitioner's ANFC group and whether his income must be considered in calculating the household's eligibility for ANFC.

FINDINGS OF FACT

The facts are not in dispute. The petitioner lives with her three children and the father of those children. Prior to May, 1995, the father received Social Security and SSI disability benefits. Because the father received SSI the Department did not include him in the petitioner's ANFC grant (see infra). The petitioner received \$692.00 in ANFC for herself and her three children.

In May, the father began working. His anticipated gross earnings were \$722.40 a month.⁽¹⁾ This resulted in the father being found ineligible for SSI (although he continues to receive his Social Security benefit of \$455.00 a month). When the Department was notified that the father was no longer receiving SSI it determined that the father had to be included in the petitioner's ANFC grant and that his income (earned and unearned) had to be considered in calculating the petitioner's eligibility for ANFC. Because the father's countable net income was in excess of the applicable ANFC payment standard the Department closed the petitioner's ANFC grant effective July 1, 1995.⁽²⁾

ORDER

The Department's decision is affirmed.

REASONS

Both the state (W.A.M. § 2242) and federal (45 C.F.R. § 206.10) regulations provide that all parents who live with their children in the same household must be included in those children's ANFC grant, and their income must be considered in calculating the household's financial eligibility for benefits. The only exception is individuals "receiving" SSI benefits (see 45 C.F.R. § 233.20[a][1][ii]). In this case the

father of the petitioner's children stopped receiving SSI benefits in May, 1995. There is no dispute that his income is now in excess of the maximum ANFC benefits payable to a household of five persons. Inasmuch as the Department's decision is in accord with the pertinent regulations the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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1. At the hearing, held on June 14, 1995, the petitioner represented that the father's earnings were, in fact, less than the Department had initially calculated. The Department agreed to recompute the petitioner's benefits (the family remains eligible for food stamps) based on this new information.
2. The net loss of income to the household was partially offset by an increase in the family's food stamps. Also, because the loss of ANFC resulted from the receipt of earned income, the family remains eligible for medicaid.