

STATE OF VERMONT

HUMAN SERVICES BOARD

In re)	Fair Hearing No. 15,462
)	
Appeal of)	

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare not to provide her cash assistance with buying a car to provide transportation needed in employment she has obtained to comply with the Reach Up program.

FINDINGS OF FACT

1. The petitioner is an ANFC recipient who participates in the Reach Up program. She has found employment as a respite care provider for a developmentally challenged adult, a job which she performs over the weekend for a total of thirty-two hours per week. She provides the respite care in her home but the adult for whom she cares lives twenty-five miles away and must be transported to her residence. Sometimes she must go back and forth to the adult's home three or four times per weekend. She is paid \$100 per weekend for her work by the adult's parents.

2. The petitioner owns a 1990 Ford Escort which she has been keeping in running condition through piecemeal repairs, some of which have been paid for through the Reach-Up support services program. The car has reached the point now where it is inoperable and cannot pass inspection without significant repairs which far exceed its worth. She

has agreed to buy a neighbor's car which is in better condition for \$500 and has put \$160 towards it. She has asked for funding for the rest of the purchase price of the car through the Reach Up program but has been denied because such support services are not authorized by the regulation.

3. The petitioner has been getting by in her job by paying someone else to transport her client. However, she must pay \$20 to \$30 per weekend for this transportation which is a significant portion of her earnings. She has not investigated the possibility of public transportation or transportation provided through the Medicaid program. She has reservations about such transportation because transitions are difficult for her client.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner argues that she should have been provided cash assistance with buying her car because in her view the "Welfare Reform Act of 1994" mandates it. She specifically cites Section 8 of Public Act 106 in support of her argument. That section provides in pertinent part as follows:

(b) When developing and implementing the welfare restructuring authorized by this act the secretary of

human services shall offer participating families intensive case management services, initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individual family development plan, and periodic reassessment of service needs and the individual family development plan; plus any of the following services needed by participating families:

. . .

(2) Transportation which will enable parental employment or participation in services indicated by their individual family development plan.

See 33 V.S.A. § 1105. Note.

The petitioner believes that this section entitles her to get payment for any reasonable transportation option which will help her to maintain her employment. She argues that the request she made is reasonable because the amount she needs to purchase the car, \$340, is not much more than she has spent on repairs in the past and will provide more reliable transportation for her employment endeavor.

The statute adopted by the legislature does require the agency to provide transportation services to the petitioner which will enable her to engage in employment as indicated by her family development plan. The statute does not dictate, however, how the Department must assist those who are in work programs with their transportation needs. The

Department of Social Welfare has adopted a regulation setting forth criteria for the purchase of support services for Reach Up participants which provides in pertinent part as follows:

An ANFC applicant or recipient may receive necessary child care, transportation and other support services which are directly related to participation in Reach Up program activities or becoming or remaining employed.

-Funding may be available on a one-time only basis for covered support service items necessary to allow ANFC applicants or recipients, who may or may not be participating in Reach Up, to remain employed or self-employed or to become employed or self-employed within 30 calendar days, pursuant to federal regulations at 45 CFR 255.2 (c)(3)(i) and (ii).

-One-time only is defined as one time per support service item per job, subject to established maximum amounts, and may include items such as transportation, tools and equipment, work-related clothing, and others.

-Funding may be available for covered support service items necessary for a Reach Up participant when he or she is scheduled to begin participating in a program activity included in his or her approved FDP within 30 calendar days, or to participate in program activities included in his or her approved FDP, pursuant to federal regulations at 45 CFR 255.2(d)(1) and (2), and (e)(1) and (2).

. . .

The Reach Up program does not guarantee:

-the availability of funds for the purchase of services or commodities; or

-the availability of services or commodities in the community at a price which falls within the limits established to enable the program to serve a maximum number of participants.

In any instance in which a necessary support service which is included in an individual's FDP either is

unavailable in the community or is available but the Department does not provide funding for the service for reasons allowable under these rules, the individual will be given an opportunity to work with his or her case manager toward amending his or her FDP to enable participation in Reach Up to continue or, if his or her participation is not required, he or she may terminate the FDP with good cause. If the individual's participation is required, he or she must cooperate with the case manager in developing an alternative FDP for which the necessary support services are available at a cost which does not exceed the limits established for the program.

. . .

W.A.M. 2347.1

This policy commits the Department to paying for support services, but within limits, and provides for the development of a new plan if the transportation needs of the particular employment cannot be met within these limits.

Pursuant to this policy, the Department utilizes written, uniform "procedures", which were drawn up in March of 1997, to set the limits on what transportation services might be purchased. The procedures covering transportation items allow payment for the following: mileage; Vermont Public Transportation Association transportation for short-term problems; vehicle repairs (other than routine maintenance) up to a limit; vehicle insurance; vehicle registration/title fees, and driver's/commercial license fees. P-2347C (5). The procedures specifically state that "Reach Up support service funds shall not be used to assist with the purchase of a motor vehicle for any individual." P-2347C (5)(c). The Department relied on this written

procedure as authority for denying the petitioner funds to assist with the purchase of a motor vehicle.

It cannot be said that the above regulation or procedures violate the mandates to provide transportation services to Reach Up participants found in the Welfare Reform Act section cited above. The regulation and procedures do provide for transportation support for employment as required by statute. To be sure, they do not provide for all kinds of transportation support, but there is nothing in the statute which dictates that they must. The petitioner has made no showing that the decision of the Department not to purchase vehicles (even inexpensive ones which may ultimately be more cost-effective than continuing with expensive repairs) as a method of providing transportation is either an arbitrary or unreasonable use of its authority to implement this statutory requirement.

The evidence indicates that the petitioner has been offered transportation services pursuant to the procedural guidelines. The evidence is ambiguous as to whether one of these services will solve the petitioner's transportation problem and enable her to continue in this employment. If she cannot continue this employment due to an inability to solve the transportation problem within the existing guidelines, the Department is required to assist her in establishing a new employment plan.

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