

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,318
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of PATH denying her request under Reach Up support services for \$150 as a tuition payment for a series of training seminars. The issue is whether the Department has the discretion under the regulations to require verification that the requested training is essential to the petitioner's employment goals and whether the petitioner is unable to afford this amount from her own income and resources. For purposes of addressing these issues the Board has assumed as facts the allegations that have been made by the petitioner at and prior to the hearing in this matter as well as findings made by the Board in several prior fair hearings involving the petitioner.

FINDINGS OF FACT

1. The petitioner has been either a Reach Up participant or under sanction for lack of cooperation with Reach Up (see Fair Hearing No. 15,987) for several years. Currently she is

on active Reach Up status. She receives RUFA benefits of \$593 a month on behalf of herself and her two teenage children.

2. The petitioner holds a medical degree from the former Soviet Union and has earned a masters degree in this country. She is fluent in English. (See Fair Hearing No. 16,490.)

3. In August 2000 the petitioner obtained a VISTA position with Vermont Tenants, a nonprofit advocacy group. That position was funded for another year beginning August 2001. She receives a stipend from VISTA of \$791 a month for this position. Under the RUFA regulations the petitioner's VISTA stipend is not counted as income against her RUFA grant. Therefore, the petitioner's monthly income is \$1,382.

4. Sometime shortly prior to September 7, 2001 the petitioner applied to Reach Up for tuition for a series of training seminars in the management of nonprofit organizations. On September 7, 2001 her Reach Up case manager requested the following information from the petitioner by e-mail:

Reach Up needs to know why you need this training considering the fact you already have a master's degree and have been doing this job for the past year and a half now? What the cost is? Reach Up needs to know that you have exhausted all other funding possibilities including VSAC non-degree grants and DET's WIA funding? Also, if this is work related, why Vt. Tenants is not paying for it? Reach Up also need your monthly budget, which was stated in your FDP, to show why you can not pay for this

training considering that you have \$1382 per month in income? Once you have given Reach Up this information, a determination will be made concerning approval for this funding.

5. Shortly thereafter, the petitioner e-mailed back the following reply:

Reach Up needs to know why you need this training considering the fact you already have a master's degree and have been doing this job for the past year and a half now?

I need this training to improve my skills to become competitive on a job market. As I explained earlier the words "education and training" have different meaning. My degree in M.Ed didn't provide any knowledge and/or experience to work in non-profit organization.

I am not doing this job for the past year and a half now. I finished my first year as a VISTA member/volunteer with a living stipend on the 10-th of August, 2001 and I started my second year as a VISTA at the same day. All together, it will be a year and a month. The tasks I would have to perform in a second year will be different from the past year.

I also can use PATH as a good example: Julia and others, you are working for DSW/PATH for years, but mandatory training are still required for you.

What the cost is?

The cost is \$150. You also have a copy of the TAP-VT program with course descriptions, schedule and cost. Maxine Holmes (my previous Reach Up case worker) confirmed that you had this copy, Julia. I also can fax copies to anyone upon request.

Reach Up needs to know that you have exhausted all other funding possibilities including VSAC non-degree grants and DET's WIA funding?

Marcia Corey from VSAC and Michael Plummer from DET both told me that non-degree grant program and WIA program cannot fund this training.

I can also fax the note from M. Plummer/DET with his statement upon request. Both of them also confirm that Reach Up/PATH is aware about their respectful programs. They were also surprised that I was referred to them by Reach Up. They assume the familiarity with their programs are common knowledge for Reach Up case workers.

Also if this is work related, why VT Tenants is not paying for it?

VT Tenants has a very limited budget for the training related directly to tenancy, fair housing, house. This training will focus on the issues of non-profit organization.

Reach Up also need your monthly budget, which was stated in your FDP, to show why you cannot pay for this training considering that you have \$1382 per month in income? An ANFC portion of \$591:

Rent	\$149
Utilities	\$150 (gas and electricity)
Phone	\$149
Food	\$143
Total	\$591

VISTA stipend \$791 (which is not considered earned income)

\$175	Reliable vehicle support (repairs, maitainace, gas, fees)
\$266	Monthly payment of Debts, accumulated during DSW's sanction for a year (during that year monthly case assistance was \$20)
\$265	Back to school shopping for 2 teenagers
\$ 85	food and household/housekeeping items
\$791	Total

Please make your determination concerning approval for this funding. The first day of training is September 21.

6. On September 10, 2001, the case manager sent the following follow-up e-mail to the petitioner:

Is this training something that Vt. Tenants is requiring you to do for your job or is this optional training? This training needs to be directly related to your present employment and your supervisor says you need it for your job.

7. The petitioner responded the same day to this message by requesting a fair hearing and a change of workers (see Fair Hearing No. 15,284).

8. On September 11, 2001 the petitioner's case manager e-mailed the petitioner that her request for the tuition payment had been denied because ". . .the Reach Up program does not believe you have provided documentation that verifies that this training is related to your employment goal. You have not provided us with documentation from VSAC to show you applied for grants and were denied. You have not proven to us that this training is a work-related necessity."

9. The petitioner e-mailed her worker back that she had not been previously asked to provide documentation regarding the relationship of the training to her employment goal, that VSAC would not accept an application for such training, and that her supervisor at Vermont Tenants "thinks that this training would be helpful for some aspects of my current job

responsibilities and for improving my professional skills for future job projects."

10. At the hearing in this matter, held on October 3, 2001, the Department maintained that under the Reach Up regulations it has the discretion to allocate funds available for training in the manner where it is most needed. The Department represented that in light of this discretion it need not approve the petitioner's request for the tuition payment until the petitioner has verified that the training in question is related to her Reach Up work plan and not redundant with other trainings she has already participated in, and until the petitioner has shown that she has exhausted all available VISTA stipends for such trainings and that she does not have sufficient income and resources to afford the tuition on her own.

11. Presently, the petitioner's work plan does not identify or contemplate any need for additional education or training before the petitioner can be considered ready to obtain employment. (See Fair Hearing Nos. 15,426 and 15,455.)

ORDER

The Department's decision is affirmed.

REASONS

The Reach Up regulations specify that support services are "based upon the results of assessments of the participants" and that "the department does not guarantee. . . the availability of funds for the purchase of services or commodities. . ." W.A.M. § 2351.1. As noted above, the Department's present assessment of the petitioner (upheld by the Board) is that she does not require additional education or training in order to be considered ready to obtain and maintain gainful employment.

Section 2351.5(3) of the Reach Up regulations provides the following under "Criteria for Purchase of Support Services":

Education and Training Expenses

When a participant has been determined eligible for financial aid from the Vermont Student Assistance Corporation and can demonstrate the ability to cover tuition costs, the department may authorize payment for books and supplies needed to participate in one or more of the following activities:

- vocational education;
- job skills training;
- basic education directly related to employment;
or
- for parents considering pursuit of a two- or four-year postsecondary degree, a "try-out" course included in the participant's FDP.

In addition, the department may authorize payment of registration, lab, testing, and other mandatory fees.

Within spending limits, the department may authorize payment for some or all of the tuition for the activities specified above when one or both of the following conditions are met:

- The payment requested is for tuition in excess of financial aid limits on nondegree tuition (e.g., tuition for a commercial driver's license.)
- Financial aid for nondegree tuition has been exhausted.

Authorization of payment for tuition in any other situation shall be authorized only when no employment goal can be pursued without the need for tuition and only with the approval of the Welfare-to-Work Programs Director or designee.

(Emphasis added.)

The above regulations are clear that funding for support services cannot be considered a legal entitlement, and that the Department has considerable discretion in allocating and authorizing Reach Up funds for education and training. As has been noted in past fair hearings, the Department does not believe that lack of training is a significant impediment to the petitioner obtaining employment.

At a minimum, the regulations allow the Department to verify that the training is essential for the participant to pursue her work goals. In this case, it must be concluded

that considering the petitioner's educational level and work experience, and her history of compliance issues with job seeking, the Department is within its discretion in requiring a high degree of justification from her before it approves funds for her to pursue additional training. To date, the petitioner has alleged only that her supervisor "thinks this training would be helpful". She does not allege, and there is nothing that remotely indicates, that additional training of this nature is a requisite for her to maintain her present job or for her to be able to pursue a wide range of future employment.

It must also be concluded that the regulations allow the Department to consider whether a recipient has the ability to pay for training on her own. The tuition the petitioner is seeking is a one-time payment of \$150. However, as noted above, because of the fact that her VISTA stipend is exempt from being counted as income in determining her RUFA grant, the petitioner's income is well in excess of (about double) that of most Reach Up participants. Although she lists her monthly expenses as exactly equaling her income, some of the petitioner's allegations as to her present financial circumstances appear somewhat suspect. For instance, there is no indication that the \$265 she lists as "back to school

shopping for two teenagers" is a recurring expense. Also, she has provided no details about her alleged "debts" of \$266 a month, and she has offered no explanation of why her phone bill is \$149 a month. This is not to conclude that the petitioner might not be able to demonstrate that she has a legitimate financial need. However, under the circumstances, the Department is at least entitled to look further at her claimed expenses before it makes Reach Up funding for training available to her.

The above notwithstanding, the uncontroverted facts remain that the petitioner is highly educated, has extensive skilled work experience, is presently employed at a responsible position, and has income well above that of most RUFA recipients. Given these circumstances, even if all the above verification issues were to be resolved in the petitioner's favor, it would still have to be concluded that the Department has the discretion under its regulations to deny tuition funding to the petitioner for further education and training based on her relative lack of need compared to other Reach Up participants.

In light of the foregoing, it must be concluded that the Department's decision in this matter is in accord with the

pertinent regulations. Therefore, the Board is bound to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#