

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,191
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Appeal of)
)

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating the Reach Up Financial Assistance (RUFA) grant the petitioner receives on behalf of her great-grandchild. The issue is whether this child can continue to receive a separate RUFA grant when he and his great-grandmother are living in the same household as his mother and another sibling. The following facts are not in dispute.

FINDINGS OF FACT

1. The petitioner is the legal guardian of one of her great-grandchildren pursuant to a Probate Court order dated September 6, 2001. The petitioner receives a monthly RUFA grant of \$388 on behalf of her great-grandchild. The Department in calculating her great-grandchild's eligibility for benefits did not consider income from the petitioner's seasonal employment.

2. Recently, the petitioner's adult granddaughter, her great-grandchild's mother, moved into her home. The granddaughter has another child of whom she has custody. The granddaughter receives a RUFA grant of \$489 a month for herself and this other child.

3. When it learned the petitioner, her granddaughter, and both children were living in the same household, the Department notified the petitioner that the RUFA grant paid on behalf the petitioner's ward would terminate because he could no longer be considered a separate household from his mother and sibling.

4. The petitioner immediately appealed this decision, and her ward's benefits have continued pending this fair hearing. When the petitioner filed her request for hearing the Department also stayed a decision regarding the RUFA grant of the petitioner's granddaughter and other child. However, the Department represents that under its regulations the granddaughter will now be eligible for a RUFA grant for herself and both children, even though the petitioner remains the legal guardian of one of those children. The Department estimates that the daughter's RUFA grant will increase by about \$125.

5. As a result of her ward no longer being eligible for RUFA the petitioner also loses her own eligibility for Medicaid. However, the Department maintains that she will be eligible for VHAP.

ORDER

The Department's decision is affirmed.

REASONS

The petitioner correctly maintains that her relationship as guardian of her great-grandchild did not change when her daughter, the child's mother, moved into her home with another sibling. However, the Department's regulations, which are based on federal statutory provisions, are clear:

. . . the assistance group must include all siblings, including half-siblings, living with the dependant child . . . A parent must be included in the assistance group if the parent lives in the home with a child included in the assistance group.

W.A.M. § 2242.

Under this provision, once a sibling of the petitioner's ward moved into her home, her ward had to be included in the assistance group of that sibling and the sibling's parent, creating a new assistance group of three persons. Because of the petitioner's income, it is to the advantage of the household if the petitioner, herself, is not included in the

new assistance group. This is permitted under the regulations because the petitioner is not considered a "parent" of either of the children, even though she is the legal guardian (and "caretaker", see W.A.M. § 2242.5) of one of the children.

The new household configuration will likely result in an overall loss of more than \$250 a month in total benefits to the two pre-existing households, although the presence of her granddaughter and her other great-grandchild will increase the amount of RUFA benefits coming into the petitioner's home by more than \$200. This is because the payment level for a household of three persons is considerably less than the combined payment levels for separate households of two persons and one person respectively. See W.A.M. § 2245. This reflects the usual circumstance that a single household of three persons can live more cheaply than separate one and two person households. The petitioner does not maintain that she will have difficulty working out a cooperative financial arrangement with her daughter, who will become the RUFA payee for both children under the new household configuration.

At the hearings in this matter (held on January 6 and March 12, 2003) it was explained to the petitioner that her legal status as her great-grandchild's guardian is not affected by the methods under which the Department is required

to pay RUFA grants. However, inasmuch as the Department's decision appears to be in accord with the pertinent regulations the Board is bound by law to affirm. 3 V.S.A. S 3091(d), Fair Hearing Rule No. 17.

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