

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,467
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his eligibility for Reach Up Financial Assistance (RUFA). The issue is whether the petitioner's eighteen-year-old son is a full-time high school student. The following findings of fact are derived from documents submitted by the Department and the petitioner at a hearing held on August 21, 2003.

FINDINGS OF FACT

1. The petitioner's son, the only eligible child on the petitioner's RUFA grant, turned eighteen on May 22, 2003.
2. On May 9, 2003 the Department notified the petitioner that his RUFA would terminate as of May 31, 2003 due to his son turning eighteen on May 22, 2003, unless the petitioner submitted documentation from a high school program certifying that his son was enrolled as a full-time student and that he was expected to graduate before his nineteenth birthday.

3. At the hearing the petitioner submitted a copy of a "school registration form", dated April 23, 2003, which the petitioner maintains he submitted to the Department in a timely manner.

4. The form appears to have been filled out by the petitioner and states that the petitioner's son was enrolling in the tenth grade at Springfield (Vermont) High School.

5. There is no claim by the petitioner, and no information in the possession of the Department, that the school, itself, considers his son to be a full-time student, or that his son has actually attended Springfield High School anytime in the past year.

6. At the time the Department made its decision in the matter (May 2003), and for many months prior to that, the petitioner's son was participating in the Department's Reach Up program because he was under eighteen and was not enrolled in school.

7. The petitioner's son has a GED.

8. At the hearing (held approximately one week before the start of the next school year) the petitioner and his son represented that the son was now exploring taking some courses through VSAC, which is a funding agency for post-secondary

education. There is no claim or evidence, however, that the son has actually been enrolled in any educational program.

9. To date,¹ the petitioner has provided no credible documentation from any source that his son was or is enrolled full time in a high school or equivalent program. Nor has the petitioner identified any source where the Department could verify such information.²

10. The petitioner submitted documentation that his son is considered disabled due to asthma, although this might be relevant only if his son were shown to be a full-time high school student (see infra).

ORDER

The Department's decision is affirmed.

REASONS

The regulations require that a RUFA household "must include one or more eligible dependent children". W.A.M. § 2242. "Eligibility criteria relative to age" is defined in W.A.M. § 2301 as follows:

¹ The hearing in this matter was continued several times at the petitioner's request. He has continued to receive RUFA benefits during the pendency of his appeal.

² The petitioner has revoked all releases allowing the Department to obtain any information about his son from any outside source.

An individual qualifies under the age criterion as a child if he or she is under 18. In addition, an 18 year old child is eligible if he or she is a full-time student in a secondary school or an equivalent level of vocational/technical training and is expected to complete high school or the equivalent program before reaching his or her nineteenth birthday. Children who are eligible for ANFC on the day before their eighteenth or nineteenth birthday remain eligible for ANFC for the full calendar month during which their eighteenth or nineteenth birthday occurs.

Under the above provisions, eighteen year olds with disabilities who are full-time high school students, and who can show that were it not for their disability they could have graduated by age nineteen, can also qualify for RUFA until they are nineteen. However, this accommodation applies only to eighteen-year-old children who are, in fact, full-time high school students.

As noted above, the petitioner has submitted no credible documentation that his son is or was a full-time high school student. According to the Department's records, for several months prior to his eighteenth birthday the petitioner's son was enrolled and participating in Reach Up. The Reach Up regulations are clear that only a child who is "out-of-school" and "not a full-time student" may participate in Reach Up. See W.A.M. §§ 2341(13) and 2362.3. As noted above, the petitioner admits his son has a GED and that he is currently

"looking into" educational programs starting this fall through an agency that funds post-secondary education.

Thus, the record appears clear that the petitioner's son was not a full-time high school student when he turned eighteen in May 2003, and has not been one since. If and when in the future the petitioner can show that his son is enrolled as a full-time student in high school or the equivalent, and that he is expected to graduate before age nineteen, or that he would have been expected to graduate were it not for a disability, he is free to reapply for RUFA on that basis.³

The above regulations are clear, however, that unless and until his son is at least enrolled as a full-time student in a secondary education program, the petitioner is not entitled to continuing RUFA benefits because he no longer has an eligible child in his household.

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³ The petitioner's son can also file his own application for VHAP medical coverage.