

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,718
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding her ineligible for Reach Up Financial Assistance (RUFA) benefits.¹ The issues are whether the Department correctly determined the number of eligible persons in the petitioner's household and the amount of the household's income.

FINDINGS OF FACT

1. The petitioner lives with her husband and their infant child. Prior to the child's birth, the petitioner received RUFA benefits as a single pregnant woman.

2. The petitioner is a full-time undergraduate college student. Although she is not a U.S. citizen, she qualifies for most benefit programs because she has resided in this country for more than five years.

3. The petitioner's husband also is not a U.S. citizen. He was admitted to the U.S. less than five years ago under a

¹ The petitioner also has appealed a decision by SRS denying her a full child care subsidy (Fair Hearing No. 18,687). A decision in that matter is still pending.

temporary student visa. He is enrolled in a post-graduate degree program and works part time. The petitioner does not dispute that his gross income is \$1,350.² The petitioner also does not dispute that after all allowable deductions his net income for purposes of RUFA eligibility is \$941 a month.

4. Unfortunately, the Department's regulations (see *infra*) do not allow the petitioner's husband to qualify as a recipient of RUFA. Thus, the petitioner and her child are considered a household of two persons. However, in determining the petitioner's and her child's income, the regulations require that her husband's net earnings be counted as available to the remaining household members.

5. The Department has determined that the petitioner and her child are ineligible for RUFA because their net household income is in excess of the program maximum of \$639 for a two-person household.

ORDER

The decision of the Department is affirmed.

REASONS

The citizenship requirements for eligibility under Reach Up are set forth in W.A.M. § 2242.73, which provides, in pertinent part:

² The petitioner maintains (and it appears to be true) that her husband is prevented by immigration law from working more hours than he is currently employed.

The Immigration and Control Act of 1986 (IRCA) specifies that aliens granted lawful temporary or permanent resident status under the Act, are disqualified from eligibility for (RUFA) benefits for five years from the date their temporary resident status is granted.

Income of an alien parent who is disqualified as per the above is considered available to an otherwise eligible child(ren) after applying the same disregards as are allowed for the parent(s) of minor parents (WAM 2242.3).

Although the above provisions produce a harsh result in this matter, it appears that the Department's decisions are fully in accord with this regulation and must, therefore, be upheld. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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