STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing Nos. B-01/10-19
	)	& B-02/10-88
Appeal of	)	

INTRODUCTION

The petitioner appeals decisions by the Department for Children and Families, Economic Services Division, terminating her Reach Up Financial Assistance (RUFA) benefits, terminating her Medicaid, and terminating her Three Squares Vermont (food stamps) benefits.

The cases are interrelated. The issues include whether petitioner failed to provide verification, whether petitioner meets the eligibility criteria of the RUFA and RUFA related Medicaid programs and whether the Department first properly reduced the amount of petitioner's Food Stamps and then terminated those benefits.

Procedural History

Fair Hearing No. B-01/10-19 relates to the Department's decision on January 4, 2010 to close petitioner's RUFA and Medicaid because there were no eligible children in petitioner's home and to reduce petitioner's Three Squares Vermont from a two-person to a one-person household effective January 15, 2010. Petitioner appealed this decision in time

for continuing benefits. A hearing was scheduled for February 11, 2010. Petitioner did not appear and, after receiving a letter from the Board to dismiss the case, petitioner indicated she did not receive the Notice of Hearing.[1] The hearing was rescheduled.

In the interim, the Department sent petitioner a Notice of Decision dated January 27, 2010 to terminate all of petitioner's benefits for failure to provide verification that her son had returned to her household. Petitioner appealed this Notice of Decision leading to Fair Hearing No. B-02/10-88.

A fair hearing on both cases was held on March 3, 2010. The record was held open one week for information from petitioner's landlord. This information was not forthcoming.

The decision is based on the evidence adduced through the hearing process.

[1] Petitioner's address was checked and changed. Petitioner lives near the boundary of two towns. She explained at hearing that she receives mail addressed to either town.

FINDINGS OF FACT

1. The petitioner is the parent of a son who turned eighteen years old during November 2009, his senior year of high school.

2. Petitioner has lived in the same apartment for the past year. Her monthly rent is $900.

3. Petitioner received RUFA benefits in the amount of $605 per month.

4. S.S. is a benefit program specialist employed by the Department. S.S. is the petitioner's caseworker.

5. The discrepancy between petitioner's grant and rent raised a question for the Department regarding the actual amount of petitioner's income. S.S. was told by petitioner that she did some work for her landlord in lieu of part of the rent.

6. On or about December 31, 2009, S.S. sent petitioner a Verification Change Request asking petitioner to provide documentation from her landlord setting out the details of the work petitioner did for the landlord in lieu of rent. Petitioner was asked to provide this information by January 18, 2010. The Department did not receive any documentation from the petitioner or her landlord.

7. In the meantime, the petitioner and her son had an altercation after Christmas. The petitioner called the Department to let them know that her son would be calling the Department with a story that he had moved out but his story was not true.

8. Petitioner's son contacted the Department to say that he no longer lived with the petitioner. The son has given the Department a copy of a police incident report showing that the police helped him remove his belongings on December 27, 2009. The son has applied for benefits from the Department in another district. His financial benefits are pending while petitioner pursues her fair hearing.

9. The Department sent out a Notice of Decision dated January 4, 2010 closing petitioner's RUFA and Medicaid because she did not have an eligible child in her household and reducing her Three Squares Vermont from a two-person household to a one-person household eligible for $200 in benefits. This decision was appealed.

10. On or about January 7, 2010, the Department sent petitioner a Verification Request due January 20, 2010 asking for a notarized statement from petitioner's son that he was residing with petitioner and asking for statements from three neighbors verifying the whereabouts of petitioner's son. The

Department included self-addressed and stamped envelopes with the request.

The Department did not receive a notarized statement from petitioner's son and did not receive statements from any neighbors.

11. On or about January 27, 2010, the Department issued a Notice of Decision terminating petitioner's benefits due to lack of verification. Petitioner appealed.

12. S.S. testified at hearing. She stated that the Department did not receive any verification from the petitioner's landlord or neighbors. The Department had information from petitioner's son including the police incident report and his application for benefits in another district office.

13. The petitioner testified on her behalf. Her rental is handled through a local real estate company. She had the first name of the person she dealt with at the real estate office (Lisa) but was unsure of the last name. Petitioner indicated she took care of the leaves in the fall, did snow shoveling and took care of the grass. She did not give details such as time or particular duties. Her testimony regarding her work was vague.

Petitioner testified that she asked Lisa to send information to the Department and thought Lisa sent information. Petitioner did not see any completed forms or letter from Lisa.

14. Petitioner testified that she took the Department forms to three of her neighbors. She stated that she was there when the neighbors completed the forms about her son's whereabouts. According to petitioner, she placed the completed forms in the envelopes from the Department and left them in her mailbox for the mail carrier to take. She did not make copies. She testified that she does not understand why the letters were not delivered.

15. Petitioner described a troubled relationship with her son. She stated that he has been back with her for a period of a couple weeks, that he has been with a friend in another town and other places since their altercation. Petitioner did not give dates regarding her son's whereabouts or information as to who was providing for his care. Her testimony about her son was vague, and when her testimony is coupled with the lack of documentation to support her claims, her testimony about her son being part of her household lacks credibility.

ORDER

The Department's decision is affirmed consistent with this decision.

REASONS

The key question in petitioner's case is whether her son is part of her household.

Reach-Up Financial Assistance (RUFA)

RUFA provides financial assistance to households in which there is an eligible child.[2] W.A.M. § 2240.

A child is eligible if the child is under eighteen years of age except for eighteen year olds who are full-time students who expect to graduate before they are nineteen years old. W.A.M. § 2230. The child's parent is eligible as part of the RUFA assistance unit if the parent lives in the same household as the child. W.A.M. § 2231.

The Department received credible information from petitioner's son that he was no longer living with the petitioner. He gave the Department a copy of a police incident report and he applied for financial benefits (Three Squares Vermont and General Assistance) as a household of one

[2] There are exceptions to allow eligibility to a pregnant woman.

in another district. Based on this information, the Department sent the January 4, 2010 Notice of Decision.

Subsequently, the Department gave the petitioner the opportunity to verify that her son was back in her household. They asked for a notarized statement from the son. This statement was not received. They asked for verification from three neighbors that the son was back in the petitioner's household. This verification was not received.

Petitioner's son is legally an adult. Petitioner was unable to provide evidence that he was in her home or under her control and care. The Department is justified in closing the petitioner's RUFA grant because she does not have a child in her household.

The petitioner can apply for General Assistance for her own needs.

Medicaid

Petitioner received Medicaid under the Families and Children provisions or ANFC-related Medicaid provisions in which parents of a dependent child are categorically eligible for Medicaid. W.A.M. § 4300.

Once petitioner no longer had an eligible child in her household, petitioner did not meet the eligibility criteria for this program.

However, the Department ordinarily looks at whether there is an independent basis for medical coverage. W.A.M. § 4300. At the very least, an application for other medical programs such as the Vermont Health Access Program (VHAP) should have been explored.

Three Squares Vermont

Petitioner received Three Squares Vermont benefits based upon a two-person household. Once petitioner's son left, her household became a one-person household. See FSM § 273.1(a)(2)(i)(C).

The Department, as part of the January 4, 2010 Notice of Decision, correctly redetermined petitioner's benefits by finding her eligible for $200 per month Three Squares Vermont.

The January 27, 2010 Notice of Decision raises other issues. In that Notice, the Department ends petitioner's eligibility for Three Squares Vermont effective February 28, 2010. This Notice is predicated on the petitioner not complying with the January 7, 2010 Verification Request regarding where her son lived.

If petitioner could show that her son lived with her, she would be eligible for Three Squares Vermont as a two-person household. Her failure to do so does not negate the

Department's earlier decision regarding her benefits as a one-person household. As a result, the Department's Three Squares Vermont determination of January 4, 2010 remains in force.

Conclusion

The Department's decision to close petitioner's RUFA grant and her ANFC-related Medicaid is affirmed, as there is no eligible child in the household. The Department should determine petitioner's eligibility for the other health insurance programs administered by the Department.

The Department's decision to change petitioner's benefits under the Three Squares Vermont program to a one-person household eligible for $200 per month is affirmed. The Department's decision to terminate Three Squares Vermont is reversed.

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