

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-01/17-05  
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Appeal of )  
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INTRODUCTION

Petitioner appeals the "vendoring" of a portion of her Reach Up Financial Assistance ("RUFA") for utility payments by the Vermont Department for Children and Families ("Department"). The following facts are adduced from a hearing held January 23, 2017, and documents filed by the Department on February 10, 2017. At her request, petitioner participated in the hearing by phone.

FINDINGS OF FACT

1. Petitioner and her spouse are RUFA recipients and live with their two minor children. Their rent payments have been and are "vendored" by the Department - meaning that payment is made directly to the landlord (their monthly rental obligation, after subsidy, is \$75).

2. At the end of October of 2016, petitioner approached the Department's GA program for assistance because her utility bills were in arrearage and she had received

shut-off notices. She was denied GA assistance at the time (which denial is not issue here).

3. Petitioner continued to have interactions with her Reach Up case manager around this time, although she did not raise the issue of her utility bills. However, on November 28, 2016, the Department mailed a notice and a "Money Management Letter" to petitioner. The notice requested that petitioner contact the Department by December 8, 2016 regarding her utility bills. The "Money Management Letter" indicated that the Department had information that "the health and safety of your child(ren) may be at risk because payments for other [than rent] essential expenses are past due" and requested that petitioner contact the Department by December 8 to discuss the situation and provide copies of her utility bills. The letter further warned that if petitioner did not contact the Department, she could be subject to the use of a portion of her RUFA to make utility payments on her behalf. As noted above, petitioner's monthly rental payment was already subject to this process.

4. Petitioner did not contact the Department by December 8. The Department mailed her another "Money Management Letter" dated December 7, 2016, with the same language quoted above, along with a handwritten note that

"gas is going to be shut off." This letter requested that petitioner contact the Department by December 19, 2016.

5. Petitioner did not respond to the December 7 letter. On December 21, 2016, the Department mailed petitioner a notice stating that "[Y]ou failed to respond to the letter regarding your utilities. As of January, your utilities will be issued as controlled vendor payments. Vermont Gas will be paid the budget amount [of] \$179 and Green Mountain Power will be paid the budget amount [of] \$155. Please contact ESD with any questions."

6. Petitioner contacted the Department on December 28, 2016, leaving a message that she was upset that her utilities would be subject to vendor payments and that she did not know why that was happening. On December 29, a worker called her back to explain why; petitioner became upset and hung up the phone before the conversation finished.

7. In January (as of January 3, 2017), the Department deducted \$134 and \$105 - for, respectively, Vermont Gas and Green Mountain Power payments - from her RUFA. On January 3, 2017, petitioner met with a Department worker and brought in her utility bills. The bills showed amounts owed (both arrearages and current due) of \$838 owed to Green Mountain Power and \$761.39 to Vermont Gas. Petitioner indicated that

she did not want to be subject to vendor payments for her utilities and wanted to appeal this decision.

8. After deduction of the vendor payments for rent and utilities, petitioner received a RUFA payment of \$175 on January 3, 2017, and a payment of \$116 as of January 13, 2017.

9. Petitioner is familiar with the appeal process and primarily disputes whether she should have received continuing benefits - that is, full control of her RUFA apart from her rent payments - during the appeal (her total RUFA was not reduced). Petitioner does not dispute her arrearages or that she was subject to shut-off notices from her utilities, and expressed significant concern about that possibility. As of the time of hearing, she continued to receive utility services. The Department represented - credibly - that the practice of vendor payments often averts utilities from moving forward with discontinuation of services.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4. Because the Department took action here, it bears the burden of proof.

The Department may implement "controlled vendor payments," automatically deducted from a household's RUFA benefit, in situations where "money mismanagement" exists. See Reach Up Rules § 2226.4. "Money mismanagement" exists "where the health and safety of the children are jeopardized by the inability of the caretaker to meet basic financial obligations on a regular basis. Such obligations include, but are not limited to, the following. . . utility or service payments, such as those which provide heat, water and electricity." Reach Up Rules § 2226.4.

Petitioner acknowledged receiving shut-off notices and being concerned about that possibility. There was no evidence in the record that petitioner is able to address this on her own (and, in fact, she came to the Department for additional assistance in October of 2016, when she was receiving her full RUFA amount). The evidence otherwise

establishes that petitioner was not able to meet basic obligations - namely electricity and natural gas services - which, particularly during winter months, jeopardized the family's health and safety, warranting the controlled vendor payments at issue under the rules.

As such, the Department's decision is consistent with the rules and must be affirmed by the Board. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.<sup>1</sup>

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<sup>1</sup> With respect to petitioner's grievance regarding continuing benefits - she did not contact the Department to request a fair hearing prior to the proposed implementation of vendor payments in January. Even if petitioner's contact on December 29, 2016 can be construed as a request for a fair hearing (which is arguable despite her premature termination of that phone call), allowing her to directly receive her full RUFA as of March would be moot if the Department's decision is affirmed at the Board's March meeting.