

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-02/10-66
)
Appeal of)

INTRODUCTION

This is the second appeal by petitioner regarding his eligibility for a childcare subsidy from the Department for Children and Families, Child Development Division.

The petitioner withdrew Fair Hearing No. B-06/09-432 after the Department reversed their position. In that case, petitioner had been approved a childcare subsidy under the service need for family support. The Department originally approved petitioner for a five-month period rather than for a full year's period. The Department agreed to reinstate the subsidy for a full year.

The petitioner filed a new application for a childcare subsidy under the service need for family support and was denied. He appealed from that denial.

A telephone status conference was held on March 1, 2010. Although the Department reinstated his earlier childcare subsidy for a one-year period, there was a gap in the actual provision of the subsidy because petitioner was unable to keep his daughter in her daycare center during the period he

did not receive the subsidy. The Department was asked to make up this period of time. A telephone status conference was held on April 8, 2010. The Department said they would reimburse petitioner for childcare during the period they should have covered but would not make up the amount prospectively. Petitioner does not have reimbursable expenses because he could not afford his daughter's daycare.

Petitioner also seeks approval of a new childcare subsidy.

FINDINGS OF FACT

1. The petitioner lives with his wife and their two-year-old daughter.

2. The petitioner is in a graduate program at the University of Vermont and is in the United States on a Student Visa. Petitioner's wife has a Bachelor's degree and has a Visa that prevents her from working in the United States. The petitioner and his wife are starting the process to change the wife's Visa so she will be able to work in the United States.

3. The petitioner was originally approved for a childcare subsidy based upon family support for a six month period rather than one year. The Department corrected their decision to cover one year. But, there is a gap of several

months that were not covered under that grant. The Department does not give perspective relief.

4. The petitioner filed a new application for a childcare subsidy based on family need on or about December 16, 2009. He was denied on January 13, 2010 and the Commissioner upheld the denial on February 26, 2010 finding that the family did not have a service need.

ORDER

The Department's decision to deny a new childcare subsidy is affirmed.

REASONS

The Legislature enacted a child care subsidy program whose purposes are set out in 33 V.S.A. § 3512 as follows:

(a) A child care services program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment. . .

(b) The subsidy authorized by this section shall be on a sliding scale basis. The scale shall be established by the commissioner, by rule, and shall bear a reasonable relationship to income and family size. The lower limit of the fee scale shall include families whose gross income is up to and including 100 percent of the federal poverty guidelines. The upper limit of the fee scale shall be neither less than 82.5 percent nor more than 100 percent of the state median income, adjusted for the size of the family. The scale shall be structured so that it encourages employment.

The child care subsidy program is not an entitlement program. To effectuate the program, the commissioner has promulgated regulations entitled Child Care Financial Assistance Program Regulations (CCFA).

The eligibility criteria are set out in CCFA II.A and include the requirement that the family have a service need. The service needs are found at CCFA II.B. Service Needs include employment, training or education (not including volunteer work or post-bachelor education), special health needs, family support, and protective services.

Petitioner was initially eligible under the family support service need. CCFA II.B.1.i. defines this service need as a:

prevention and early intervention service designed to reduce stress for families and children and promote positive child development. The child care financial assistance may be authorized after a confidential application and risk assessment have been completed and reviewed. Generally authorized as Part Time or may be authorized as Full Time. Program duration is generally one year.

Petitioner experienced a gap in coverage when the Department did not provide a full year's subsidy. Because of the gap in subsidy, petitioner could not continue his daughter at her daycare. The Department is willing to

reimburse for that period but not pay prospectively. This decision can be separately appealed.

Petitioner also seeks a new childcare subsidy. He applied under the the family support service. This service need is ordinarily given for one year and not renewed. There does not appear to be any basis for eligibility under the other service needs. However, petitioner can reapply if his family's circumstances change.

The Department's decision to deny a new childcare subsidy is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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