

In re) Fair Hearing No. 10,147
)
Appeal of)

The petitioner appeals the decision by the Department of Social and Rehabilitation Services (SRS) terminating her child care subsidy. The issue is whether the Department's decision is in accord with the pertinent regulations.¹

The petitioner is married and has two children, ages eleven and four. In late September 1990, the petitioner moved from New Jersey to Vermont to take a job with the newly-created Family Court. Her husband and children remained in New Jersey until October 19, 1990, when they joined the petitioner in Vermont. Before she moved to Vermont, the petitioner had applied to SRS for a child care subsidy to place the younger child in day care while she worked and while her husband (who is an electronics technician) looked for work.

On October 30, 1990, SRS granted the petitioner a child care subsidy effective October 22, 1990 (the date the petitioner first placed her child in day care), but ending on November 9, 1990.

Unfortunately, the petitioner's husband was (and still is) unable to find work, despite a diligent search. The petitioner is still in need of a day care subsidy to allow her husband to devote his full energy to seeking employment. SRS terminated the petitioner's child care subsidy as of November 9, 1990.

ORDER

The Department's decision is modified. The petitioner is found to be eligible for a child care subsidy from October 22, 1990 through November 21, 1990.

REASONS

Social Services Regulations § 4032.1, in effect at the time of the petitioner's application for services, included the following "definitions":

Eligibility Criteria

Day Care services can be authorized to any family that meets the "Service Need" and "Eligibility Standard" as defined below.

Service Need

Service need is broadly established when day care is necessary to support a family goal of "self-support" or "protection".

Need for day care to support a goal of self-support or protection is evidenced in the following family situations:

. . .

In a family in which both parents are residents of the home, each parent must fit one of the following categories:

(a) Employed.

. . .

- (f) Seeking employment (support will not exceed 30 days unless extended by the Commissioner).

Under the above definitions, the petitioner was clearly entitled to a day care subsidy for 30 days while her husband was seeking employment. Inasmuch as SRS determined the petitioner eligible for only 19 days (until November 9, 1990), the case should be remanded to SRS to calculate the petitioner's subsidy for 30 days--until November 22, 1990. Furthermore, under the regulations the petitioner should be entitled to make an application to the Commissioner of SRS for an extension of the 30 day limit based on her husband's inability to find work.²

After the hearing, the petitioner informed the board that she also had a question regarding the percentage of her subsidy based on the SRS "eligibility standard" (see supra). Inasmuch, however, as the hearing officer did not at the hearing explore the petitioner's finances, she is advised to contact the SRS district office to attempt to clarify the extent of her eligibility. If, after speaking with SRS, she is still aggrieved over this or any other aspect of her subsidy, she can request further hearing before the Human Services Board.

In the meantime, however, SRS on remand, should subsidize the petitioner's day care payments for a period of at least 30 days.

FOOTNOTES

¹The petitioner appeared pro se at the hearing. SRS did not send a representative to the hearing. The office of SRS's attorney confirmed by phone to the hearing officer on the day of the hearing that it had received notice of the hearing.

²It appears, however, that the granting of such an extension would be at the sole discretion of the Commissioner.

#