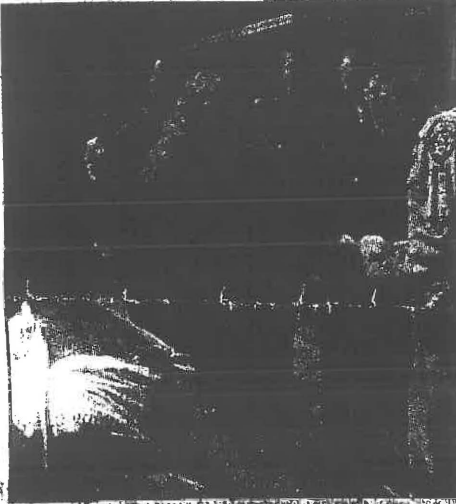


A terrible fire, a painful recovery. This is the story of how one family has become entangled in a bureaucratic nightmare that has a mother spending as much time dealing with financial survival as she does the survival of her burned son.



Denise Burch stands by her burned son, Kevin Daly, during a ceremony with firefighters outside Brookside Hospital in Richmond May 5.

Gift of kindness leads to turmoil

By DEREK J. MOORE
Register Staff Writer

NAPA — Denise Burch was a week away from going off welfare when her life began to unravel. It has been unraveling ever since.

A single parent with three children, Burch was in the final stages of a work-training program on Feb. 19 when a fire at her Third Street home destroyed her dreams, and set into motion months of frustrating personal and legal issues.

"It was a horrible setback for her because she was job ready," said Janice Zanolini, special projects coordinator for the Napa County Training and Employment Center.

While Burch and two of her children escaped the blaze with only minor injuries, her 9-year-old son Kevin Daly was not so lucky. Neither was 14-month-old Marc Firman, the son of a family friend who died in the flames despite heroic efforts by Kevin to save him.

Kevin's story has been told in the Register and on Bay Area television: He suffered burns over 40 percent of his body, including third degree burns to his face and torso. He remains in Oakland Children's Hospital, where he undergoes painful surgery after surgery to repair his body.

In the weeks that followed the tragedy, an outpouring of donations from the community prompted Burch to open a trust fund for her son's medical needs not covered by the state's medical program, Medi-Cal.

In all, his bills could total more than \$1 million, Burch said.

On May 10, a San Francisco woman who saw

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Kevin's story on television decided to donate \$10,000 to the trust fund.

"To me, she (the donor) is an angel," Burch said. "Although it's caused me a lot of grief, it's worth it. Kevin needs it."

The "grief" Burch refers to relates to the fact Napa County officials, who say they are enforcing state and federal laws, want to terminate Burch's welfare benefits, including Medi-Cal, because of the \$10,000 donation.

While Burch said the fund is strictly for Kevin's needs, county officials contend the money is an asset, and, therefore, makes Burch ineligible for welfare.

"When people get windfall income, we expect them to use that income instead of relying on the state," said Terry Longoria, director of the county's Health and Human Services Agency.

State and federal laws say that if a welfare recipient receives a large sum of money, then they become ineligible for aid and must live off the new income.

In Burch's case, county officials want to make her ineligible for benefits for 11 months, or the time equal to how long they think the money in Kevin's trust fund will last.

"If this person came into this money, she should be able to live off that," said Korinne Chee, spokesperson for the state Department of Social Services.

Chee said the rules are stringent because of the prevailing attitude that those who don't work should not be supported by taxpayer dollars.

"This is my money and your money that people are using to live on," Chee said. "It's an issue of fairness. People who are able-bodied should be out there working."

As for the county, Longoria said, officials here are simply following the rules.

"That's our public charge, and we take it very seriously," Longoria said.

Burch said she has tried to follow the rules, but with the burden of taking care of Kevin and her other two children, she has not been able to keep track of them all.

"I'm trying to do everything by the book, but it's hard when I keep running into stumbling blocks I don't know about," she said.

TRUST FUND

Burch opened the "Kevin Daly Trust Fund" on Feb. 23 at Napa National Bank on Claremont Drive with an opening balance of \$50.

Rather than ease her problems, it only made them worse.

Friday, August 4, 1995

Zanolini, who assisted Burch with her job training, helped Burch establish the fund and was named its trustee, or the person responsible for all the money coming into or going out of the account.

"It was never my intention that it would stay in my name," Zanolini said.

On March 6, Napa National was notified by Contra Costa legal aid attorney Evelyn Rinzler that the fund would have to be changed for family needs.

Burch had sought assistance from Rinzler's office because Kevin was in Brookside Hospital in San Pablo Bay at the time.

Following her attorney's advice, Burch on April 27 changed the fund to the "Kevin Daly Irrevocable Special Needs Fund," and substituted herself for Zanolini as trustee, according to county documents.

By giving herself access to the account, Burch, it seems, jeopardized her welfare benefits — monthly payments and Medi-Cal.

The trust fund, according to Oakland attorney Larry Padway, who would later help Burch, is "permanently and irrevocably for the special needs of a child." It is not money to be used for the parents, or to pay for expenses provided by state agencies like welfare, Padway said.

Padway, who specializes in personal injury cases, said there are many medical expenses, like certain plastic surgeries or expensive burn creams, that Medi-Cal does not cover.

"Part of the fund is to cover medical needs that fall through the cracks," he said.

Burch said she would have preferred not to have been named as the trustee of the fund, but she could not find anyone else to do it.

She said she had trouble reaching Zanolini for questions about the account, while bank officials and one of Kevin's teachers declined to be named as trustee.

"I wasn't supposed to be on the trust. I knew it, but there was nothing I could do," Burch said.

In the meantime, Kevin had been moved to Oakland Children's Hospital.

When Burch tried to contact Rinzler for further advice on the fund, Rinzler told her she could no longer be of help because Kevin had since been moved to Oakland and out of Contra Costa County.

Rinzler did not return phone calls from the Register.

It was from April 27 to June 27, when Burch searched for new legal help, that she may have gotten herself into trouble in the eyes of welfare officials.

On April 27, when the new fund was created, Burch withdrew \$100 from the trust fund to