

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 9615  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare to compute her January, 1990, Food Stamp benefits using "retrospective budgeting"--i.e., basing the petitioner's January Food Stamps on her income in December. The issue is whether the department's "budgeting" methods are in accord with the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner applied for Food Stamps in November, 1989. At that time, she was a recipient of unemployment compensation. The department, pursuant to its regulations and procedures (see below), "budgeted" the petitioner's Food Stamps for November and December, 1989, "prospectively" by calculating, in advance, the amount of unemployment compensation due the petitioner in those months. As of January, 1990, the petitioner was to become a "monthly reporter", and from then on her benefits would be calculated "retrospectively" based on her previous months' reported income.

The problem in the petitioner's case is that in December, 1989, the petitioner received five weekly

unemployment checks (instead of the usual four) because 5 weekly unemployment payments happened to fall within that calendar month. Thus, she had abnormally high reported income for the month that was used both prospectively and retrospectively--i.e., the same month (December, 1989) was used as a basis to compute both her December and her January Food Stamps (January being the "switch-over" month from prospective to retrospective budgeting). This resulted in the petitioner being issued about \$20 less in Food Stamps than she would have received had a four-payment (of unemployment compensation benefits) month been used as the basis of either December's or January's computations.

The petitioner received her last unemployment check on January 6, 1990.

ORDER

The department's decision is affirmed.

REASONS

The department's system in determining initial Food Stamp grants is set forth in both its regulations and procedures. F.S.M. § 273.21(b)(1) and Procedures Manual § P-2250C. The first two months of eligibility are budgeted prospectively, based on the income anticipated in the first two months of eligibility.<sup>1</sup> In the third month recipients are switched over to monthly reporting and their grants are based on the income reported in each month. In every case, this results in the second month's income being the basis of both the second and third month's Food Stamp budget.

Under F.S.M. § 273.10(c)(ii), the department is allowed to average income that fluctuates as long as the recipient's benefits are calculated prospectively. However, since the petitioner only received unemployment for a short period of time (two months), this would have resulted in no net gain to her--November's Food Stamps would have been lowered to reflect the fact that her average monthly unemployment benefit was higher than what she actually received in November. Also, since the petitioner is now in retrospective budgeting, when and if her income again increases, this would not be reflected until the following food stamp payment month. In short, the net loss of benefits to the petitioner, though considerable in one month--January, 1990--over the long term, appears de minimus.

The petitioner, who appeared pro se, did not dispute either the factual basis of the department's calculations or that the department's procedures are in accord with its regulations. Inasmuch as the department's procedures do appear to be in accord with the regulations, the board is bound by law to affirm the department's decision in this case. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

FOOTNOTES

<sup>1</sup>The regulations indicate that Vermont obtained a special "waiver" from the federal food stamp agency (the Department of Agriculture) to make its food stamp monthly reporting system consistent with Vermont's ANFC monthly reporting system.

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