

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9785
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department's decision to terminate her Food Stamp benefits due to excess resources in the form of bank accounts.

FINDINGS OF FACT

1. The petitioner is a fifty-nine-year-old Food Stamp recipient who underwent a routine eligibility review in March of 1990. During the review interview she reported that she had a savings account at a local bank. That report prompted the Department to seek verification of her account with the bank.

2. On March 12, 1990, the bank reported that the petitioner had three accounts: a certificate of deposit with a \$586.76 balance, an IRA account containing \$2,179.21 and a savings account containing \$85.28. The petitioner agrees that she owned accounts in those amounts on that date.

3. The Department thereafter called the Bank to determine what the penalty for early withdrawal might be on the IRA account and learned it would be between \$250 and \$300.

After deducting the amount for early withdrawal, the Department determined that the amount in the petitioner's

combined IRA, CD, and savings accounts exceeded the \$2,000 resource limit.

4. On April 12, 1990, the petitioner was notified that her \$99.00 Food Stamp allotment would end as of April 30, 1990 because she was determined to have excess resources of \$854.25.

5. The petitioner currently has no employment because her doctor has advised her not to work. She lives in subsidized housing which she currently gets rent free, and relies exclusively on Food Stamps for her meals. Her various savings accounts were accumulated while she was employed as a housekeeper. The IRA money was intended for her retirement and she hopes to start drawing on it in November when she will be fifty-nine and a half. The CD is a nest egg for emergencies and the savings account is money she uses to pay current bills.

6. Following the notice, the petitioner borrowed \$500.00 on a life insurance policy which she deposited in her savings account. On May 8, 1990 she closed her CD account and deposited \$584.64 from that CD into her savings account. Since April 12, the date of the closure notice, the petitioner has withdrawn about \$450.00 from the savings account to pay bills. Her balance as of May 23, 1990, the date of her hearing, was \$405.75. The petitioner says she is holding that balance to pay bills, including a tax bill. She is reluctant to withdraw money from her IRA account as

she is nearing the age (59 1/2) when she can start to withdraw without penalty.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations state that:

"The maximum allowable resources, including both liquid and nonliquid assets, of all members of the household shall not exceed \$2,000 for the household, except that, for households including a member or members age 60 or over, such resources shall not exclude \$3,000.00.

F.S.M. § 273.8 (b)

The regulations go on to specifically require that in determining a household's resources, the State agency must include and document money in "savings accounts", "saving certificates", and "funds held in individual retirement accounts (IRA's)". F.S.M. § 273.8 (c)(1) For IRA's (and KEOUGH's) the State agency "shall include the total cash value of the account or plan minus the amount of the penalty (if any) that would be exacted for the early withdrawal of the entire amount in the account or plan". F.S.M. § 273.8 (c) (1)

At the time of the review, the petitioner owned an individual retirement account valued at at least \$1879.21 (\$2179.21 - \$300.00), and a certificate of deposit worth \$586.76. Those two accounts alone equaled at least \$2465.97, which is \$465.97 more than the maximum allowed. Because those accounts exceeded the Department's maximum, the Department was correct in determining that she is no

longer eligible for Food Stamps.

Because those two accounts alone are over the resource amount, it is not necessary to analyze whether the petitioner's savings account should be considered a resource. However, a question does arise now that the petitioner has closed the CD account as to whether funds she borrows and places in her savings account to pay bills or anticipated bills should be treated as income, rather than as a resource. The petitioner was advised to immediately reapply for Food Stamps and to bring copies of the bills or anticipated bills she plan to pay from her savings account.

The petitioner is reluctant to "spend-down" to the \$2,000 level because she has no other income and anticipates several bills.

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