

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,378
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department of Social Welfare's decision to decrease his ANFC grant due to his receipt of unearned income in the form of unemployment compensation benefits.

FINDINGS OF FACT

1. Sometime in 1990, the petitioner began receiving ANFC benefits of \$709.00 per month as the unemployed parent of two small children at a time when he had no other income.

2. In November of 1990, the petitioner began receiving unemployment compensation benefits of \$392.00 per month.

3. When the Department became aware¹ of the petitioner's unemployment income, his benefits were recalculated by subtracting the \$392.00 unemployment compensation figure from the benefits payable to him. That recalculation resulted in a reduction of the petitioner's monthly ANFC grant from \$709.00 to \$317.00. The petitioner was notified of the proposed reduction by a notice dated June 21, 1991 which he appealed June 24, 1991. He has continued to receive benefits at the higher level pending this appeal.

4. The petitioner does not dispute the mathematical

calculations used by the Department in figuring his benefits. However, he argues that his unemployment compensation should not be used to offset his ANFC benefits because those benefits alone do not meet all of his needs. He specifically mentioned the cost of operating and insuring his car.

ORDER

The Department's decision is affirmed.

REASONS

The Department's regulations require that all income, except that specifically excluded, be included when calculating the family's ANFC grant. See W.A.M. § 2250. Nowhere in the regulations is unemployment compensation specifically excluded and it is, in fact, specifically included at W.A.M. § 2252 which classifies it as includible "unearned income". The regulations further provide that "the full amount of available income shall be applied to the payment standard". W.A.M. § 2252. This treatment is mandated by the federal regulation at 42 U.S.C. § 233.20(a)(3)(ii)(B) which requires that "Unemployment compensation received by an unemployed principal earner shall be considered only by subtracting it from the amount of the assistance payment after the payment has been determined under the state's payment method.

The petitioner argues that subtracting his unemployment benefits from his ANFC benefits will not "maximize his

ability to support himself and his dependent children" and is thus in conflict with 42 U.S.C. § 601(a), et. seq. which authorizes the ANFC program. While the petitioner correctly states the goal of the legislation, the program mandates to assist persons are not limitless but are rather required only "as far as practicable under the conditions in such states." 42 U.S.C. § 601(a) "Purposes". Under the federal statute, states are clearly given the authority to determine what their basic standard of need is and how much of that standard the state will meet through payments. See 42 U.S.C. § 602(h), Quern v. Mandley, 436 U.S. 725, 98 S. Ct. 2068 56 L. Ed. 2d 658 (1978); and Dare v. State of Vermont, 630 F. Supp. 107 (1985); aff'd 795 F. 2d 1004 (1986).

There is nothing in the enabling Act which requires Vermont to include the cost of the upkeep on and insurance for an automobile in its standard of need or to prevent it from offsetting unemployment benefits from the amount it will pay toward that standard. While the petitioner is understandably frustrated trying to support his family on \$709.00 per month, the amount paid to him has been calculated in a legal manner and an increase in that figure would have to be legislatively enacted. As the Department's action is supported by its valid regulations, the Board is bound to uphold the decision. 3 V.S.A. § 3091(d).

FOOTNOTES

¹How the Department became aware of these benefits is an issue in dispute between the parties and, as that fact is unnecessary for the determination of this appeal, no finding is made thereon.

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