

appeal.

Shortly after receiving the petitioner's appeal, the Department discovered that it had erroneously credited some of the household's earnings from another month to the month of May. On June 27, 1991, the Department sent the petitioner a "corrected notice" stating that, even though it had recalculated the petitioner's income for May, the family was still ineligible due to excess income.

At the hearing the petitioner did not recall receiving the corrected notice. However, she took no issue with the calculations contained therein. The petitioner conceded that the Department had, in its corrected notice, correctly determined that her husband's income for May, 1991 was \$1,797.65.

ORDER

The Department's decision is affirmed.

REASONS

The food stamp regulations set forth a preliminary "gross income test" for eligibility. Food Stamp Manual § 273.9a. Unfortunately (and this is the crux of the petitioner's complaint¹), the regulations do not provide for any deductions or allowances from gross income.² The petitioner's gross family income for May, 1991 was \$1,797.65. Under the regulations, the maximum gross income for a household of five persons is \$1,608.00 per month.

Food Stamp Procedures @ P-2590c. Inasmuch as it is uncontroverted that the petitioner's gross income for May, 1991, was in excess of the program maximum, the board is bound by law to affirm the Department's decision to suspend the petitioner's food stamps for the month of June, 1991. 3 V.S.A. @ 3091(d); Food Stamp Fair Hearing Rule No. 17.

FOOTNOTES

¹The petitioner was also upset that she wasted time and effort trying to rectify the Department's initial miscalculation. The hearing officer cannot find, however, that there was any culpable negligence on the Department's part in this regard.

²Under the regulation, households that "pass" the initial gross income test are then entitled to various deductions and allowances from income in determining the amount of their food stamp allotment. See Food Stamp Manual @ 2273.9a-d.

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