

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 10,742  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the Department of Social Welfare's denial of her application for ANFC and Food Stamps based on a transfer of excess resources.

FINDINGS OF FACT

1. The petitioner is an artist who recently moved to Vermont with her four-year-old son. She had a temporary assignment with an environmental activist group for which she received a stipend when she first came to Vermont. Because the stipend was not sufficient to meet her needs, she applied for ANFC and Food Stamps in August of 1991. After her application was made, she found that the stipend would completely stop much sooner than she had expected.

2. The petitioner was first assisted through the Bennington district office where she reported both her total lack of income and her total lack of resources in this country. She forthrightly disclosed, however, that she had a savings account in France representing the proceeds of some furnishings of value which she had sold through a friend and which she guessed had \$200 or \$300 in it. Upon investigation, she and the Department discovered that the account actually

contained approximately \$2,487.96.

3. The petitioner also disclosed the existence of dozens of her paintings which have some potential value as the petitioner has been recognized as an artist of some merit. However, the petitioner held a solo exhibition recently in which she put twenty or so of these paintings up for sale but was unable to sell one. She attributes this to the general difficulty of selling art and the particular difficulty of selling art during a recession. It is found based on this testimony that the petitioner's paintings currently have no market value.

4. After the true amount in the account was ascertained, the worker for the Department advised the petitioner that she would have to use that money before she could become eligible for ANFC or Food Stamps because it was in excess of the maximum. The petitioner became upset when she learned that because she wants to use that money to transport her life's work of paintings from France to this country. She is afraid that if she does not do so, now, she will lose her only opportunity to preserve her work. The petitioner claims that the worker was not sensitive to her need to keep that money or to her lifestyle as an artist.

5. After her conversation with the worker, the petitioner asked a friend to take the money from the account and to arrange for the shipment of her paintings to this country. Her friend did this and gave her money to another

friend who is in the process of making these arrangements.

6. After hearing of this action, the worker interpreted the petitioner's remarks as indicating that she was transferring the \$2,487.96 to a friend to become eligible for benefits. On September 12, 1991, both the petitioner's ANFC and Food Stamp application were denied based on her alleged transference of the \$2,487.96 to a friend's name in order to become eligible for assistance.

7. The petitioner asserts that the \$2,487.96 is still in her control and has not been given to anyone else for her or his personal use. The petitioner's assertions in this regard are found credible, particularly because such assertions are against her interests in this matter (which would be to claim divestment of ownership of her assets.) She still intends to use the cash to ship her paintings to this country which is an occurrence of great importance to her.

8. The petitioner understands that her ownership of this \$2,487.96 cash asset makes her ineligible for Food Stamps and ANFC and that she can reapply (although she will probably have to show that she spent the money as opposed to giving it away) at a later date if she so desires. The nub of the petitioner's complaint at this point, is the lack of respect she feels she received from the worker. At the hearing, she was given an internal complaint form to fill out.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations specifically include cash in savings accounts as countable towards the \$2,000 per household maximum resource limitation. F.S.M. § 273.8(b)(c)(1). As the \$2,487.96 in the petitioner's account is over the limit, she will be ineligible until such time as her resources fall below the \$2,000 mark. F.S.M. § 273.8(b).

Similarly, the ANFC regulations include liquid assets such as savings accounts (or cash) as countable resources for determining eligibility. W.A.M. §§ 2260, 2263.1. The maximum allowable resource level for the ANFC applicant family may not exceed \$1,000 or eligibility is lost. W.A.M. § 2261. The petitioner's account puts her considerably over that figure.

The Department's basis for the denial of the petitioner's claim based on transfer of assets appears to be erroneous. However, the Department's conclusion that the petitioner is not eligible for the above benefits is not erroneous based on the petitioner's admitted ownership of excess assets, as such, the Department's decision must be affirmed. The petitioner appears to understand that she may reapply for benefits at any time and become eligible once she has demonstrated that she actually spent the money down

to the applicable resource limits.

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