

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 10,977  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the Department's decision denying her Food Stamps and Fuel Assistance based upon excess income.

FINDINGS OF FACT

1. The petitioner, a single unemployed woman, applied for Food Stamps and fuel assistance on December 30, 1991. At the time of her application, the petitioner reported that her sole source of income was unemployment compensation of \$182.00 per week.

2. After the interview the worker who calculated the petitioner's benefits determined that there were four weeks in December and assumed therefore, that the petitioner had received four checks of \$182.00 each. Based on the total of four weeks, the worker determined that the petitioner was over income for both Food Stamps and fuel assistance.

3. In fact, the petitioner had only received three checks for \$182.00 each in December and after receiving notice of her ineligibility, told the Department of its error. The petitioner's eligibility was recalculated using the new figure and it was determined that the petitioner was eligible for Food Stamps and fuel assistance.

4. On January 13, 1992, the petitioner received a notice which advised her that she was eligible for a benefit of only \$2.00 in Food Stamps and \$72.00 in fuel assistance.

The Food Stamp benefit for December was prorated to reflect eligibility for the last two days of the month since Food Stamps can only be paid prospectively from the date of application. She received the full fuel assistance benefit for December since those benefits are paid on a full monthly basis to anyone who is found eligible at any time during the month. The Department also notified the petitioner that although she was eligible for \$2.00 in benefits, the Department's regulations prohibit the issuing of benefits under \$10.00. The petitioner does not take issue with this eligibility determination for December.

5. The petitioner was also notified that she would not be eligible for either benefit for the month of January when it was expected she would receive five checks of \$182.00 each, a total which would place her over the maximum income levels for both programs.

6. The petitioner did in fact receive five checks of \$182.00 each for a total of \$910.00 in January of 1992. She believes, however, that the Department's decision is incorrect because it did not take into account her \$510.00 monthly rent figure.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations specifically include unemployment compensation as countable unearned income for purposes of determining income eligibility. F.S.M. § 273.9(b)(2)(ii) In order to be found eligible for Food Stamp benefits, both a gross income test and net income test must be met. F.S.M. § 273.9(a) If the applicant's gross income exceeds the standard she cannot be found eligible.<sup>1</sup> If the petitioner's gross income falls below the maximum standard, shelter and other deductions are applied to the income to obtain a net figure used to determine the amount of the benefits. F.S.M. § 273.10. The gross income maximum for a one person family is \$718.00 per month. Procedures Manual 2590C. The Fuel Assistance regulations similarly define unemployment compensation as countable unearned income. W.A.M. § 2904.2. That income with certain exemptions and disregard not applicable here must be used initially to determine the applicant's household eligibility. The gross income maximum for a one person household for fuel assistance is \$690.00 P. 2905(A.) Thereafter, as in the Food Stamp program further deductions are allowed to determine benefit levels for eligible persons.

In this matter, the petitioner's gross income is well over the gross income maximum for both Food Stamps and Fuel Assistance. Therefore, she does not meet the household test

for eligibility and is not entitled to further consideration of her shelter expense in order to determine her benefit level such as occurred in December. As the Department's determination is in accordance with its regulation, its decision must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule 19.

FOOTNOTES

<sup>1</sup>Certain adjustments can be made to gross income for items such as dependent care, child support payments and elderly and disabled exemptions. F.S.M. § 273.9 However, the petitioner does not claim and the facts do not support the existence of any such deduction.

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