

handles her Food Stamp benefits to discuss the change. Although the petitioner apparently had the idea that the change occurred due to her Section 8 housing benefits, she was informed that the decrease was a result of a change in income that affected all S.S.I. recipients. The petitioner appealed the decision because she believes the Department does not have the right to make a change for an amount less than \$25.00 per month.

6. During a Food Stamp review on January 28, 1992, the petitioner reported that she had started working and was given an employment verification form to fill out and return.

7. The form, which was returned on February 5, 1992 reported that the petitioner was employed doing janitorial work approximately one to one and a half hours per week during January for which she was paid \$18.00 per month. Although the petitioner was assisted in obtaining this employment by the vocational rehabilitation division, it appears that all the funding for this job comes from the employer¹ and that no special program is involved.

8. On February 10, 1992, the Department notified the petitioner that beginning March 1, 1992, her Food Stamps would decrease from \$48.00 to \$42.00 based upon an increase in her income from \$0.00 to \$18.00 and a decrease in her shelter and utility costs. To figure her countable income, 20%, or \$3.60 per month, was deducted as a standard work expense for a final countable figure of \$14.40.

9. The petitioner does not quarrel per se with the computations made by the Department. Rather she bases both of her appeals on what she believes to be the erroneous inclusion of her increased income in figuring her benefits. She describes this effect as a "penalty" for her working.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations require the inclusion of "all income from whatever source excluding only items specified in paragraph (c) of this section." F.S.M. § 273.9(b). The definition specifically includes "earned" income from all wages and salaries of an employee, F.S.M. § 273.9(b)(1)(i), and "unearned" income from Supplemental Security Income (S.S.I.). F.S.M. § 273.9(b)(2)(i). The exclusions set forth at paragraph (c) in the above regulations are numerous but do not concern private employment income and none are applicable here.

It appears, therefore, that the Department was correct that these types of income must be included in determining the amount of benefits due to the petitioner. Although the petitioner argues that she is being "penalized" for working, the regulations work rather to reduce her Food Stamps based on her present ability to pay more towards her own food bill. Even with these offsets, she is still "ahead" \$8.00

on her S.S.I. increase and \$12.00 on her earned income (before taxes), although she undoubtedly still must work with a limited income.

The final issue remaining is whether the Department is prohibited by its regulations from making changes based on the receipt of less than \$25.00 per month in additional S.S.I. income by the petitioner during her certification period. Under the Department's regulations, certified households are not required to report gross monthly income changes of less than \$25.00 until their next certification review. F.S.M. § 273.12(a)(1)(i). However, there is nothing in this regulation, which prohibits the Department from making a change of benefits based on any new countable income which may come to its attention during the certification period. In fact, the Department is required to make mass changes to reflect cost-of-living adjustments in S.S.I. no later than "the second allotment issued to non monthly reporting households issued after the month in which the change becomes effective." F.S.M. § 273.12(e)(3). As the \$25.00 figure relates only to the petitioner's obligation to report a change and not to the Department's obligation to implement a change, it must be concluded that the Department acted according to its regulations when it automatically reflected the petitioner's COLA changes in January of 1992 in her Food Stamp benefits.

FOOTNOTES

¹At hearing, the petitioner, who was accompanied by her vocational rehabilitation counselor, was given the regulations listing types of income excluded for Food Stamps purposes at F.S.M. § 273.9(c). Although she was given additional time after the hearing to submit evidence that her employment fell under one of these exceptions, she offered none.

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