

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 11,233  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her food stamp grant. The issue is whether the petitioner's income is in excess of the program maximum.

FINDINGS OF FACT

The facts are not in dispute. The petitioner lives with her husband and their four-year-old child. Their income is the wages of the petitioner's husband. Through March, 1992, the husband's wages were below the applicable "gross income level" (see infra) for the food stamp program, and the family qualified for monthly food stamps. In February, 1992, the husband's gross wages were \$1,108.00, which, after all applicable "deductions", yielded a food stamp allotment of \$120.00 for March.<sup>1</sup>

In March, 1992, the husband's gross wages increased to \$1,368.00, an amount in excess of the "gross income maximum" for a family of three--\$1,207.00 (see infra). Thus, the family was determined to be ineligible for any "deductions" from their income and were found ineligible to receive any food stamps for April, 1992.

The husband's gross earnings for April were \$1,227.00--twenty dollars in excess of the "gross income level". Based on this the Department closed the petitioner's food stamp grant for May.<sup>2</sup>

ORDER

The Department's decision is affirmed.

REASONS

Section 273.9(a) of the food stamp regulations (F.S.M.) provides that households without an elderly or disabled member must meet both "gross income" and "net income" eligibility standards in order to qualify for food stamps. The "gross income test" is the preliminary hurdle.

Gross income is defined as all "countable income before deductions". Id. The gross income limits are set by federal regulation at 130 per cent of "federal income poverty levels". Id. For a family of three, the gross income maximum is \$1,207.00. Procedures Manual § P-2590C. Only after a household passes the "gross income test" is it eligible for consideration of the deductions that are used to determine "net income", upon which monthly allotment levels are based. See F.S.M. § 273.9(d).

The petitioner is understandably upset and incredulous that households like hers, which are slightly in excess of the gross income limit, can suffer a loss of food stamps much greater than the amount of income in excess of the gross income limit. (In the petitioner's case, although she

was only \$20.00 over the gross income limit for May, she would have qualified for much more than \$20.00 in food stamps had her gross income been \$20.00 less.) However, it is clear that the Department's decision is in accord with the pertinent regulations. Therefore, the board is constrained to affirm. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

FOOTNOTES

<sup>1</sup>Because the petitioner's husband is employed, the family files a "monthly report" of his wages, and the household's benefits are determined on a retrospective basis--i.e., each month's food stamps are based on the income reported for the previous month. See F.S.M. § 273.21.

<sup>2</sup>The regulations provide for "suspension" of benefits in the first month that the gross income of a monthly-reporting household is in excess of the program limit, and for "termination" of benefits when there are two consecutive months of income in excess of the maximum. See F.S.M. §§ 273.21(m) and (n).

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