

in an A.N.F.C. "assistance group" of five persons. Moreover, since the father was receiving unemployment compensation, this income was used in determining the amount of the household's A.N.F.C. This resulted in a sizeable decrease in the household's A.N.F.C. benefit.

The petitioner, who appeared pro se, took no issue with the facts and figures relied upon by the Department in its determination.¹ Although she strongly disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

Over the past several years the Board has considered dozens of appeals concerning the provisions in the regulations, adopted pursuant to the 1984 DEFRA amendments to the federal A.N.F.C. statutes, mandating the inclusion in an A.N.F.C. household of all siblings, and parents of those siblings, who reside with A.N.F.C.-eligible children, and "deeming" the income of those siblings as "available" to the entire A.N.F.C. household. See Fair Hearing Nos. 6648 et. al. and W.A.M. 9 2242. This case again illustrates the incongruity in the manner in which Congress implemented these so-called deeming provisions.²

Nonetheless, it is clear in this matter that the Department has correctly followed what the United States Supreme Court has upheld as a valid procedure for determining the A.N.F.C. eligibility of individuals in the petitioner's circumstances.³ Therefore, the Board has no choice but to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTES

¹The petitioner was advised that if the father returns to work, she should promptly report this to the Department so that her former ANFC grant amount is restored.

²By statute, mandatory household inclusion and income-deeming of half-siblings occurs only when the parent of that sibling is absent, unemployed, or incapacitated--but not when the parent is living in the household and is working. See 42 V.S.C. § 602(a)(38).

³See Bowen v. Gilliard, 55 U.S.L.W. 5079 (1987).

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