

As a result, his fuel costs were paid by the Department through the fuel assistance program.

4. On August 1, 1992, the petitioner moved to another apartment which rented for \$650.00 per month, which figure included heat but not his lights or gas hot water. The petitioner's move was motivated by his desire to avoid the large heating bills and the necessity of applying to the Department for emergency payment. The Department calculated his new total shelter costs at this apartment at \$756.00 per month.

5. On August 1, 1992, the petitioner reported his new rent to the Department. Based on that information, the Department determined that the petitioner's shelter expenses had actually gone down from \$376.50 to \$234.50. The new shelter figure resulted in \$808.49 in countable income versus \$666.49 before. The Department notified the petitioner on August 14, 1992 that his Food Stamps would be reduced from \$170.00 to \$127.00 per month effective September 1, 1992 due to his decreased shelter cost.

6. The petitioner does not dispute that the shelter figures in paragraph four are those associated with his new apartment. However, as he only actually pays his rent, not his heat, the petitioner argues that his expenses have gone up (because it includes heat) and that his Food Stamps should not have been decreased.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations provide, in pertinent part, that deductions from income used in determining Food Stamp eligibility are available for shelter costs:

5. Shelter Costs

Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1), (2), (3) and (4) of this section have been allowed. The shelter deduction shall not exceed the maximum limit established for the area. This is applicable unless the household contains a member who is elderly or disabled as defined in 271.2. Such households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions. The shelter deduction amount applicable for use in the 48 contiguous States and the District of Columbia, and the amounts applicable for use in Alaska, Hawaii, Guam, and the Virgin Islands are adjusted annually and will be prescribed in General Notices published in the Federal Register,

VERMONT: The shelter deduction amount applicable is published in the P-2590A Section of the Welfare Procedures Manual.

Shelter costs shall include only the following:

- i Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purpose of a mobile home, including interest on such payments.
- ii Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

VERMONT: Taxes, assessments and insurance are averaged over the full period for which they are incurred. Clients may request that they be averaged over the certification period in which the non-delinquent

payment is due, or computed against the individual month in which the non-delinquent payment is due, providing such option does not result in any duplication of deductions. No deduction shall be allowed for delinquent payments; i.e., payment of taxes, assessments, etc., which were initially due prior to the current certification period.

iii The cost of heating and cooking fuel; cooling and electricity; water and sewerage; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

. . .

W.A.M. § 273.9

As the petitioner is a disabled person, all shelter expenses which he actually incurs which exceed 50% of his income are fully deductible to obtain a net monthly income figure used to determine the amount of Food Stamps for his family.

The petitioner does not argue that he has further shelter expenses which ought to be deducted by the Department nor does he argue that the shelter figures are incorrect. The petitioner's position is based upon the mistaken belief that the Department should base his shelter expenses on what he actually pays rather than what he actually incurs. There is nothing, however, in the above regulation which suggests that any figure other than the actual charges for rent and utilities be used. As the Department correctly used the actual charges, it must be found to have followed its regulation.

The petitioner argues that the methodology in the

statute provides a disincentive for him to move to a cheaper apartment since he could have stayed in his old apartment, paid less for his shelter and received more Food Stamps. His assertion is true but it does not account for the fact that he may well be eligible for fuel assistance in his new apartment even though it is included in the rent. The petitioner is encouraged to investigate this possibility. In the long run, the petitioner will undoubtedly be financially better off in an apartment which provides the same services for less money.

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