

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,914
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare reducing his Food Stamp benefits based on the receipt of unearned income in the form of Supplemental Security Income benefits.

FINDINGS OF FACT

1. The petitioner is an adult male who receives Food Stamps and Medicaid benefits through the Department of Social Welfare. Prior to the day before the hearing (April 27, 1992) the petitioner resided with his parents because he had no source of income. In late February or early March of 1993, the petitioner was awarded Supplemental Security Income benefits of \$490.55 per month and received in addition a retroactive award. The petitioner's mother was appointed representative payee and thereafter received and used the petitioner's checks to meet his monthly expenses. Due to poor eyesight, the petitioner cannot read documents and gets information in them from his mother or other persons.

2. In late February or early March of 1993, the Department became aware through the Social Security Administration that the petitioner had been awarded benefits.

On March 2, 1993, a letter was mailed to the petitioner stating that his Food Stamp benefits would decrease April 1, 1993, from \$111.00 to \$10.00 due to his receipt of \$490.55 in unearned income each month. Accompanying the notice was a calculation sheet showing that the petitioner's income had been adjusted by a \$127.00 standard deduction and that the amount of his countable income was set at \$363.55 per month. The petitioner received no deduction for amounts spent on shelter since he had reported no shelter expenses.

3. In the last week of March 1993, the petitioner received his \$10.00 check for April and on March 26, 1993, called his worker to complain about the decrease. The petitioner does not recall his mother or anyone else telling him that a notice concerning the reduction had been sent to him. The worker explained that the reduction occurred because of his receipt of SSI benefits. The petitioner informed the worker that he now would be paying his mother \$50.00 per week and half of the utilities and needed to keep his Food Stamp benefits at the \$111.00 level in order to survive.

4. In response to his call, the worker filed an appeal for the petitioner and restored his benefits to their former level pending the outcome of the fair hearing. She also advised the petitioner that she could deduct part of his current shelter expenses from his SSI in order to reduce the amount of his countable income and to increase his Food Stamp allotment to about \$53.00 per month if he provided her with

verification of his payments to his mother. The worker mailed two forms along with two pre-addressed stamped envelopes to the petitioner for that purpose explaining that his mother had to fill out the amounts he was paying her for rent and utilities and sign and return the form before the change could be made.

5. The petitioner failed to return the forms or to contact the Department in any way prior to the date of his fair hearing. The petitioner stated variously that his mother did not want to sign the forms or that he did not want to bother her with making out forms because she was seventy years old. The petitioner was not sure if he had even received the forms, although the petitioner stated that he frequently was not aware of what mail he received.¹

6. The day before the hearing, the petitioner moved from his mother's house to a rooming house. His current rent is \$87.50 per week which includes heat, hot water, and electricity. He only reported that move to the Department at the hearing and was advised that he should pick up shelter verification forms after the hearing for his landlord to sign so he could receive a deduction from income for his shelter. The petitioner indicated that he intended to do so.

¹ At the hearing, the petitioner was asked whether he wanted his mail directed to some other sighted person on his behalf. The petitioner unequivocally stated no and asked that his mail continue to be addressed to him at his mother's house even though he had moved out of her house the day before the hearing.

ORDER

The Department's decision is affirmed.

REASONS

The essential ground for the petitioner's appeal is his belief that he should be entitled to the maximum amount of Food Stamps for a single person, \$111.00 per month, because he has less than \$500.00 per month to live on. He feels that a \$10.00 per month allotment is totally inadequate to meet his food needs. It is not difficult to imagine that this is so, particularly now that his shelter costs are over \$350.00 per month. However, Food Stamps are dispensed in accordance with state and federal regulations which are applied equally to all similarly situated individuals. The amount of Food Stamps which the petitioner may receive is calculated based on the amount of net income he has as a disabled individual after applicable deductions are made from his countable gross income. F.S.M. § 273.9(a).

The Food Stamp regulations specifically require that supplemental security income benefits be counted as gross income for eligibility purposes. F.S.M. § 273.9(b). The regulations set out a list of deductions which may then be made from income including a standard deduction which is available for all applicants. F.S.M. § 273.9(d)(1). The standard deduction used in calculating net income is \$127.00. P-2590(A)(1). Other deductions are also available if the

applicant/recipient can show some earned income, excess medical expenses, dependent care, or shelter and utility expenses. F.S.M. § 273.9(d)(2)-(6).

The record here indicates that the petitioner's SSI was considered as his gross income and, because he initially reported no shelter or other expenses when he lived at his mother's house, the only deduction made was the standard one of \$127.00 for all persons. The net income of \$363.55 was then used to figure the amount of his food stamp benefit which for a one person household is \$10.00. Coupon Allotment Tables, P-2590 D. The Department's calculation appears to have been initially correct.

Subsequently, it appears that the petitioner did incur a shelter expense. The petitioner states that he believes he should get the shelter deduction merely because he states that he has one. However, the Department claims that such an expense must be verified by the landlord receiving the rent. "Verification" is described in the Department's regulations as "the use of third-party information or documentation to establish the accuracy of statements on the application." F.S.M. § 273.2(f). The Department's regulation opts, as federal law permits it to do, for the mandatory verification of factors such as shelter expenses which may affect the household's allotment level. F.S.M. § 273.2(f)(3)(i). The regulations also provide that the Department may determine

benefit levels without providing a deduction for claimed but unverified expenses until such time as the verification is provided. F.S.M. § 273.2(f)(3)(B). It therefore appears that the Department is within its authority in requesting that the petitioner provide it with a signed shelter verification form from either of the petitioner's two landlords before the shelter deduction is granted. The Department has represented to the petitioner that upon receipt of the signed shelter verification forms, the petitioner's Food Stamp grant will be corrected back to the time he first incurred such expenses. The Department has also offered to assist the petitioner in obtaining shelter statements if he should so desire.

The Department's requests and actions in this matter are in accord with its regulations and the Board must, therefore, uphold the decision to reduce the petitioner's Food Stamp grant. 3 V.S.A. § 3091. Few would argue with the petitioner when he says that he has little to live on but the regulations simply do not provide for more. The petitioner can best maximize his Food Stamp benefits by immediately returning the completed and signed shelter verification forms to the Department.

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