

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,923
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare closing her Food Stamp grant based on a determination that her household income is in excess of maximums set by law.

FINDINGS OF FACT

1. The petitioner lives with her two young children and receives an ANFC grant on their behalf.

2. On April 15, 1993, the father of the petitioner's younger child moved into the household with her. The child's father has a full-time job from which he earns \$6.00 per hour. His income during the month of February 1993 was \$1,064.01.

3. The petitioner was notified by the Department that beginning April 15, 1993, her ANFC grant would be cut from \$600.00 to \$495.00 based on the fact that only she and the older child would be eligible due to the younger child's father's return to the household. The petitioner does not dispute the Department's reduction of her ANFC.

4. The petitioner was also notified by the Department that as of May 1, 1993, her Food Stamp benefit of \$210.00 per month would be cut based on household income in excess of that

allowed by the Department. Calculations provided by the Department with this decision show that \$1,074.01 in gross earned income and \$558.00 in ANFC income were used to reach a countable income figure of \$1,622.01 per month. That figure was compared to \$1,512.00, which the Department determined was the maximum gross income for four people and the petitioner was determined to be ineligible for any benefits.

5. The \$558.00 ANFC figure used in the above calculation was derived from taking sixty percent of the early April ANFC figure of \$600.00 per month, or \$360.00, and forty percent of the late April figure of \$495.00, or \$198.00 and adding them together for an actual April ANFC figure. For the months following April, presumably only the \$495.00 figure would be used giving the family a total countable Food Stamp figure of \$1,559.01.

6. The petitioner does not dispute that the earned income figures used by the Department are correct or that the figures exceed Department maximums for Food Stamps. She argues, however, that the Department's action is taking away food from her older child and requiring the younger child's father to support him. The child's own father is supposed to pay \$50.00 in child support each month, but does not do so.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner's essential argument is that her household should be split up for Food Stamp purposes just as it is for ANFC purposes by separating out the older child who is not related to her younger child's father, and making him a separate household or assistance unit. The petitioner's configuration is not an illogical one, but is not the configuration adopted in the Food Stamp regulations. The Food Stamp regulations determine eligibility based on the income of household units. Food Stamp Manual § 273.1.

Household units are defined as follows:

a. Household Definition

1. General Definition

A household is composed of one of the following individuals or groups of individuals provided they are not residents of an institution (except as otherwise specified in paragraph (e) of this section), are not residents of a commercial boarding house, or are not boarders (except as otherwise specified in paragraph (c) of this section);

- i An individual living alone;
- ii An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;
- iii A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

2. Special Definition

- i The following individuals living with others or groups of individuals living together

shall be considered as customarily purchasing food and preparing meals together, even if they do not do so:

- A. A spouse as defined in 271.2 of a member of the household;
- B. Children under 18 years of age under the parental control of an adult household member;
- C. Parent(s) living with their natural, adopted or step-child(ren) and such child(ren) living with such parent(s), unless at least one parent is elderly or disabled as defined in 271.2. If at least one parent is elderly or disabled, separate household status may be granted to the otherwise eligible parent(s) or child(ren) based on the provisions of paragraph (a)(1) and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section.

. . .
- D. Siblings (natural, adopted, half or step brothers and sisters) living together, unless at least one sibling is elderly or disabled as defined in 271.2. If at least one sibling is elderly or disabled, separate household status may be granted to the otherwise eligible elderly or disabled sibling based on the provisions of paragraph (a)(1) of this section and subject to the provisions of paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) of this section.

. . .

The above regulations require that the petitioner's two children, who are living with their parent, be included in her Food Stamp household and that the children's parents living in the home, in this case the younger child's father, be included as well. The regulations, furthermore, require that all half-

siblings, which would include both of the petitioner's children, be included in the same food stamp household. Under the above regulations, the petitioner's children and her younger child's father must be considered members of the same household under any number of provisions. It must be concluded that the Department acted properly in combining all the persons in her household for purposes of determining income eligibility. As there is no dispute as to what those persons incomes are or that the aggregate income is above the maximum allowed, (see P-2590 C) the Department's decision must be upheld. 3 V.S.A. 3091(d).

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