

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,132

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare finding him eligible for food stamps in the amount of \$10.00 per month. The issue is whether the Department should calculate the petitioner's rent on a monthly or weekly basis.

FINDINGS OF FACT

The petitioner is a single young man who currently resides in a residential facility for individuals who have recently completed drug and alcohol rehabilitation programs. His income consists of Social Security disability payments of \$544.00 a month.⁽¹⁾ His rent at the facility is \$70.00 per week, which includes utilities.

The petitioner applied for food stamps in May, 1993. In determining the petitioner's eligibility for six-month "certification period" beginning in May, the Department determined that the petitioner's rent was \$280.00 per month because in that month (May, 1993) the petitioner made four weekly rent payments. The Department acknowledges that in some months the petitioner will make five rent payments, but it insists that it is the petitioner's responsibility to reapply for food stamps in any month that that should occur. Until the petitioner arrived at his fair hearing, however, the Department had not provided him with any information or notice that he should do this.

When queried by the hearing officer as to why the petitioner's rent could not be averaged on a monthly basis for his six-month certification period the Department responded that its "computers weren't set up that way".⁽²⁾

ORDER

The Department's decision is modified in that the petitioner's rent payments shall be averaged and calculated on a monthly basis.

REASONS

The food stamp regulations specifically provide that households can elect to "average" expenses that fluctuate month to month. F.S.M § 273.10(d)(3). The Department's

position in this matter appears to be in capricious disregard of its own regulations, and is reversed.

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1. In June, 1993, the petitioner briefly held a part-time job and earned \$354.00 that month in addition to his Social Security.
2. The petitioner's primary grievance was that his food stamps were simply too low. At the hearing (held on July 14, 1993), however, the Department demonstrated to the petitioner and the hearing officer that except for the issue of calculating the petitioner's shelter expenses, the Department correctly determined the amount of his food stamps based on his income, expenses, and household size.