

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,491 &
) 12,518

INTRODUCTION

In these consolidated fair hearings, the petitioner appeals a decision of the Department of Social Welfare (DSW) terminating his Food Stamp, Medicaid, and Supplemental Fuel Assistance benefits based on either failure to verify income or excess income; and a decision finding that he had been overpaid Food Stamps.

FINDINGS OF FACT

1. On November 1, 1993, during the pendency of two other consolidated appeals involving a termination of these same benefits due to an alleged failure to cooperate (see Fair Hearings No. 12,301 and No. 12,345), the petitioner, who both works and receives Social Security and is the head of a one person household, called the director for his DSW district to report the following income:

Earned Income Social Security

July 1993 \$758 \$634

August 1993 \$800 \$634

September 1993 \$600 \$634

October 1993 \$400 \$634

2. The petitioner also reported that he received a

lump sum retroactive Social Security award of about \$8,000 in late July of 1993, of which he said he had approximately \$2,000 left at the time of the hearing on February 14, 1994. 3. On November 2, 1993, DSW sent a letter to the petitioner asking him for written verification of the information supplied in paragraphs one and two above and also requesting information on how and when the lump sum was spent. The petitioner was asked to provide this information by November 17, 1993 but did not respond to this request.

4. Using the figures orally offered by the petitioner, the Department went ahead without verification and determined that, he has a gross monthly average earned income of \$639.50. To determine his eligibility for Food Stamps, a \$127.90 per month standard deduction for earnings figure was subtracted from his earnings and his Social Security figure was added in to show total earnings of \$511.60 per month. The petitioner was then allowed a further shelter deduction of \$103.70 which is based on the difference between his reported shelter costs and half of his unearned income. (The petitioner did not dispute the shelter amount used.) After a standard deduction of \$131.00 was made, it was determined that the petitioner has a countable Food Stamp income of \$910.90 per month. He was denied Food Stamps because his countable income was over the \$581.00 figure for a one person household.

5. On November 19, 1993, the petitioner was mailed a notice informing him of the results and advising him that his Food Stamp benefits would be closed as of December 1, 1993, both because the Board had found in Fair Hearings No. 12,301 and No. 12,345 that he had failed to provide information needed to determine his eligibility, and because the information he did supply, although not verified, showed that his income exceeds Department standards for a household of his size.

6. On November 22, 1993, the petitioner received a second notice repeating the information in the November 19 notice with regard to the Food Stamps, and adding that his Medicaid would close December 1, 1993 and that his Fuel Assistance would end with his November 1993 check because his income was too great as well for either of those programs. With regard to the Medicaid, the petitioner was notified that he could become eligible again if he incurred medical bills in the amount of \$1,207.50 between December 1, 1993 and May 31, 1994. That same notice also advised the petitioner that his case was being transferred to another district office based on his move to a town covered by that office.

7. The petitioner appealed those closures and the transfer of his case to the new office. On December 10, 1993, the Department notified the petitioner that he was determined to have received \$264.00 more in Food Stamps than he was entitled to receive from August 1, 1993 to November 30, 1993 based on the figures he lately orally supplied which led it to conclude that it "did not receive correct, complete or timely information from him". The Department explained at hearing that the overpayment occurred because the petitioner reported income for those months which showed he was considerably above the maximum limits. Because he did not provide income information for November of 1993, the District Director projected his average income for the preceding months into that month as well.

8. The above two appeals were scheduled for hearing at that same time. At the hearing, the petitioner did not dispute any of the figures used by the Department in calculating his income during July through October of 1993. He did object to the determination that income he received in prior months was reflective of his income in November of 1993. The petitioner testified that he might have made about \$100 in November of 1993, but offered no verification of that amount. At the time of the hearing, he had not reapplied for any of these programs.

9. The petitioner is also adamantly opposed to changing district offices. Although he has technically moved into a new district, he is still closer to the original district office than the one to which he has been transferred. The petitioner has no business in the area of the new district office and would find it a hardship to make trips to that area. His former district is located in an area he uses for shopping and other errands. Although as a disabled person he is not required to travel to the district office to conduct business, both the petitioner and the District Director agreed that it is often easier and quicker to meet face to face than to deal via mail or telephone. The Department does make exceptions to the geographical districting policy for persons who find it more convenient to travel to a different district.

The Director is not inclined to make that exception for the petitioner because he and the staff find the petitioner difficult to deal with and consuming of a disproportionate amount of their work time.

ORDER

The Department's decisions with regard to the Food Stamp, Medicaid and Fuel Assistance closures are affirmed.

REASONS

The adverse actions taken in this case rest in large part upon the same difficulty the petitioner had on his last two appeals (Fair Hearings No. 12,301 and No. 12,345), namely his stubborn resistance to providing verification of his income and resources to the Department. Virtually every program administered by the Department requires the verification of income as a condition of eligibility. See MM § 131 (Medicaid), F.S.M. § 273.12(a) (Food Stamps) and W.A.M. § 2905 (Fuel). Without that vital information, it is impossible to know whether the petitioner is eligible for benefits or not. The petitioner's continued failure to document his income was found in the prior hearings, and that finding continues to be a valid reason for denying benefits. See MM 133, F.S.M. 273.12(d) and W.A.M. § 2905(a).

Since the petitioner's orally reported income, if verified, would have shown that he was over income, the Department took the additional (and arguably moot) step of determining his eligibility based on his unverified income. The income reported by the petitioner which averaged \$1,273.50 per month was considerably over the maximums for each of these programs even when all allowable deductions are considered. The Medicaid maximum for a household of one is \$683.00. P-2420B. The Fuel Assistance maximum for the same size household is \$730.00. P-2905A. The Food Stamp net maximum as stated correctly on the notice is \$581.00 per month for a one person household. P-2590D.

The petitioner claims that the Department is mistaken in finding that he was not entitled to Food Stamps for the period at issue, from July through November. However, figures given directly by the petitioner to the director for July through October indicate that he would not have been eligible during any of those months and yet he indisputably received Food Stamps during all those months. In addition, it was not unfair for the Department to assume that the petitioner had similar income in November of 1993. If that is not so, the petitioner has his remedy at hand by revealing and verifying his actual income for November. The Department is absolutely required by regulation to establish a claim for recovery of all overpaid amounts, F.S.M. § 273.18(a). There is every reason to believe at this point that the Department's claim is fair and justified.

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