

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,616

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Appeal of )

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare (DSW) to reduce his Food Stamp benefits based on a cost of living raise in his Social Security benefits.

FINDINGS OF FACT

1. In January of 1994, the petitioner received a notice that his Social Security benefits would increase from \$641.00 per month to \$658.00 per month. Because of that increase, DSW notified the petitioner on January 6, 1994, that his Food Stamp benefits would decrease on February 1, 1994 from \$49.00 to \$41.00 per month.
2. The Department's calculation was based on the use of the Social Security income (the petitioner's only source of income) minus a standard deduction of \$131.00. Half of the \$527.00 remainder, or \$263.50, was subtracted from the petitioner's reported shelter expense of \$556.00 per month to obtain a shelter deduction amount of \$292.50. When that \$292.50 is deducted from the original adjusted income amount of \$527.00, a countable income of \$234.50 is obtained. From that amount, the Department determined that the petitioner was eligible for \$41.00 per month in Food Stamps.
3. The petitioner does not dispute the calculation method used here. (In fact, he did not appear to understand it.) He believes however, that the Department erred when it used the amount of his cost of living increment in the calculations. It is his assertion that his cost of living increase cannot be considered income to him for Food Stamp purposes. He says that when his cost of living increase is used to reduce other benefits he is placed in a worse, rather than a better position.

ORDER

The Department's decision is affirmed.

## REASONS

When Food Stamp eligibility is calculated, the regulations require the inclusion of household income which "shall mean all income from whatever source excluding only" certain specific items. F.S.M. § 273.9(b). The regulations specifically include Social Security benefits and do not exclude any portion, including cost of living increments, from consideration. F.S.M. § 273.9(b)(2)(ii) and (c). Therefore, the Department correctly used the new Social Security amount in calculating the petitioner's Food Stamp income.

The petitioner has surely lost some of the benefit of his Social Security increase but it has not been deducted dollar for dollar. The eligibility determination begins by using the unearned Social Security income and deducting a standard allowance of \$131.00 from that amount. F.S.M. § 273.9(d)(1), Procedures Manual 2590(A)(1). Prior to the Social Security increase his adjusted amount was \$510.00 (\$641.00 minus \$131.00). After the raise it was \$527.00 (\$658.00 minus \$131.00). The petitioner is further allowed a shelter deduction which is based on the difference between his shelter costs and half his unearned income. See F.S.M. § 273.9(d)(5), 273.10(e)(1), Procedures Manual § 2590D. The petitioner's shelter costs both before and after the cost of living increase was \$556.00 per month. However, because his income has increased, the difference between his shelter costs and half his income (his deductible amount) will decrease because 50% of his additional income will be set-off against his shelter deduction. In other words, half his new adjusted income, \$263.50, is greater than half of his old adjusted income, \$255.00, which increase results in his shelter deduction being reduced from \$301.00 to \$292.50.

When the "before" and "after" increase figures are deducted from their respective adjusted income figures, the countable income for Food Stamp purposes is obtained, \$209.00 prior to the increase and \$234.50 after the increase. F.S.M. § 273.10(e)(1)(i)(G). Departmental allotment tables set a benefit amount of \$41.00 for a one person household with \$234.40 in countable income. See Procedures Manual § 2590D.

The above presentation of the mathematical and legal basis of the Department's action is so complex, it will probably not do much to explain to the petitioner how his benefits were calculated or why he should immediately lose part of his cost of living increase to a Food Stamp reduction. He is probably right when he says that as a disabled person dependent upon a combination of government benefits he feels he is worse off every year. However, the Board is not in a position to redress the lack of fairness which may result when the rough edges of programs intersect unless it has a legal basis for doing so. As the Department's decision is consistent with the applicable law and regulations it must be upheld. 3 V.S.A. § 3091(d).

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