

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,714

)

Appeal of)

)

INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare reducing her Food Stamp benefits based upon her receipt of unemployment compensation benefits.

FINDINGS OF FACT

1. The petitioner is a single woman who is currently unemployed and who began receiving unemployment benefits of \$696.00 per month, retroactive to December of 1993, in February of 1994. At the time she got her unemployment benefits award, she was receiving \$112.00 per month in Food Stamp benefits.

2. The petitioner reported the receipt of the unemployment benefits to the Department. On March 9, 1994, the Department notified the petitioner that based on that

new income, her Food Stamp benefit would be reduced to \$10.00 per month effective April 1, 1994. The Department based its notice on the following calculations:

Unearned income + \$ 696.00

Standard deduction - \$ 131.00

Income Subtotal = \$ 565.00

Allowance for Shelter and

Utility based on:

Petitioner's reported rent + \$ 650.00

Standard Utility Allowance + \$ 311.00

Total Shelter and Utility = \$ 961.00

Deduction of One-half of

income subtotal from total - \$ 282.50

Shelter and utility allowed = \$ 678.00

Maximum shelter and utility

deductible under regulations = \$ 207.00

Total Countable Income \$ 565.00

Minus Max Shelter Allowed - \$ 207.00

Applicable Food Stamp Income = \$ 358.00

Benefits for One Person

with \$358.00 in Income = \$ 10.00

3. The petitioner does not dispute the accuracy of the figures used or the calculations in paragraph two. Instead, she argues that the regulations should allow her to deduct her entire actual expenses from income and that no cap should apply to the amount she should have deducted. In addition to her actual fuel and shelter expenses, the petitioner believes other household expenses should be deducted. She offered the following information regarding those monthly expenses (estimated for the winter months):

Rent \$ 650.00

Electricity \$ 65.00

Oil \$ 200.00

Snow plowing \$ 165.00

Garbage removal \$ 25.00

TOTAL \$1,105.00

4. The petitioner argues that no income should be attributed to her as available to buy food as she spends more than her entire unemployment compensation check on household expenses. The petitioner stopped receiving unemployment compensation when her benefits ran out on May 7, 1994 but has not asked the

Department to recalculate her benefits.

ORDER

The Department's decision is affirmed.

REASONS

The petitioner is factually correct that her household expenses are not being fully considered in the calculations used by the Department. Even if both the standard deduction of \$131.00 and the fuel and shelter deduction of \$207.00 were added together, that figure falls almost \$700.00 short of her non-food related monthly expenses. However, the Food Stamp regulations do not allow for a case by case assessment of the applicant's situation nor do they allow for the consideration of full and actual household expenses, however necessary or real they might be.

Under the regulations, the petitioner as an able-bodied younger person, is allowed a standard deduction of \$131.00. See F.S.M. § 273.9(d)(1) and Procedures Manual 2590A(1). She is also allowed a shelter and utility allowance deduction based upon adding her actual rent and a standardized figure (P-2590A(5))⁽¹⁾ for her utilities, and deducting from that half of her unearned income. See F.S.M. § 273.9(d)(5), 273.10(e)(1), Procedures Manual Sec. 2510E(2). If the petitioner were elderly or disabled, she would be able to subtract that entire figure from her income. Because she is not, she is subject to a cap in the regulations of \$207.00. See F.S.M. § 273.10(e)(1)(i)(G). That cap operates to require that income which may not actually be available to her to buy food is, nevertheless, counted as such to obtain a benefit amount. The petitioner does not argue, and there is no reason to suppose, that the cap is illegal, however unfair it may seem.

The countable income after these calculations, in the petitioner's case \$358.00, is compared to an allotment table for the coupon amount, for a single person, in her case \$10.00. See Procedures Manual Sec. 2590D. That is the maximum amount of Food Stamps the petitioner may receive unless her situation or the regulations change. As the Department's decision is in accord with its valid regulations, its decision must be upheld. 3 V.S.A. § 3091(d). The petitioner was encouraged to report her loss of unemployment benefits to the Department at the time of the hearing so that a recalculation of her benefits for the period after May 7, 1994 could occur.

###

1. The petitioner could use her actual utility expenses instead of the standardized figure if they were higher. However, her reported utility figures are actually lower than the standardized figure so she does get some added benefit through use of the standard.