

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,016

)

Appeal of)

)

INTRODUCTION

The petitioner appeals a determination by the Department of Social Welfare terminating her Food Stamp benefits based on excessive household income. The issue is whether the income of an unrelated adult male living in the petitioner's household should be deemed to the petitioner's household unit.

FINDINGS OF FACT

1. The petitioner is a divorced woman who lives with her three-year-old child, the son of her ex-husband, and a six-month-old child, the daughter of a man who also lives with her.
2. The petitioner receives \$513 per month in an ANFC grant for herself and her son. She also receives a \$50 per month "passalong" from the child support collection unit based on payments made by her ex-husband.
3. The petitioner's male companion moved into the household with her a little over a year ago when he found out she was pregnant. He states that he stays at the house because the petitioner, who has a profound hearing loss, would have difficulty managing two small children without help. He has taken financial responsibility for his daughter's support since her birth in April of 1994. His sole source of income since that time has been unemployment compensation of \$840 per month.
4. Throughout her pregnancy, the petitioner had been receiving \$285 per month in Food Stamps for herself and her son. Her male companion was not included in her household and received no Food Stamp benefits.
5. On July 20, 1994, the Department mailed a notice to the petitioner telling her that her Food Stamp benefits would be terminated as of August 1, 1994, because her household "income is more than the Department allows for a household of your size." In its calculation of her household income, the Department added together her ANFC income of \$513 per month, her child support "passalong" of \$50 per month, and her male companion's unemployment compensation of \$840 per month. The \$1,403 total was reduced by a standard deduction of \$131 for a countable total of \$1,272. The Department compared that total to a \$1,196 maximum figure and determined that the household was over-income for any Food

Stamp benefits.

6. The petitioner claims not to have received that notice. When she did not receive her Food Stamps on August 1, 1994, she called her worker and was told about the termination. At her request, her Food Stamp benefits were continued pending the appeal.

7. The petitioner does not take issue with the deductions or find fault with the computations. Her sole ground of appeal is the Department's inclusion of her male companion's \$840 income in her household income. She states that she was told by her worker that after the baby was born, her male companion's income would be counted and that her Food Stamps might be reduced but not terminated. She argues now that he should not be included in her Food Stamp household and that his income should be kept separate from hers as it is for the ANFC grant. Her male companion has debts and expenses which make his income unavailable to her to use for food expenses. She believes he will not be able to make-up the \$285 she is losing in Food Stamp benefits from his income.

8. The petitioner, when asked if she felt she was "disabled", that is, unable to work because of her hearing loss, replied "no." She has never applied for Social Security disability benefits. However, she had difficulty understanding the proceedings and the hearing was postponed and reconvened at a later date with a sign language interpreter provided by the Board. Her companion estimated that she is able to hear only about 15-25 percent of what is being said to her.

ORDER

The decision of the Department is affirmed.

REASONS

The Food Stamp regulations allow individuals in a household who customarily purchase and prepare their food separately to form separate households for Food Stamp purposes. F.S.M. § 273.1(a)(1). However, the regulations also contain a special definition of household which provides as follows:

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:

...

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)(1)(A) and (a)(2)(1)(B) of this section. . . .

D. Siblings (natural, adopted, half or step brother and sisters) living together, unless at least one sibling is elderly or disabled as defined in 271.2. . . .

F.S.M. § 273.1(a)(2)

F.S.M. § 271.2 defines a disabled person as one who receives any number of government benefits intended for disabled persons, such as Supplemental Security Income, Social Security disability or blindness benefits, a state SSI supplement, public disability retirement benefits, railroad retirement disability payments and veteran's disability benefits. The definition does not contain any criteria other than the receipt of the listed benefits for determining disability.

Under the above rule, a man and a woman who have a child together and who live together must be in the same Food Stamp household unless one of them is elderly or disabled. The Department was correct, then, in determining that the petitioner and her companion had to be part of the same household unit. (Note that before they had the child in common, they were not required to be in the same unit.) The only way that the petitioner can form her own separate household unit is to show that she is disabled by presenting evidence of the receipt of a government benefit based on disability. This she was unable to do at the time of the hearing. The informal (unsupported by medical documentation) allegations she made at the hearing about the severity of her hearing loss indicate that it may well be worth her while to pursue Supplemental Security Income benefits.⁽¹⁾ If she is awarded such benefits, she is entitled to favorable treatment as a disabled person, not only under the Food Stamp program, but many other public benefits programs as well.

As a member of the petitioner's household unit, her male companion's unemployment compensation is fully countable as unearned income to the group. F.S.M. § 273.9(b)(2)(ii). The addition of his income places the household just slightly over the Food Stamp maximum of \$1,196 for a household of four. If the household has child care expenses (related to working or education) or work expenses (should either return to work) those should be reported for a further deduction.⁽²⁾ Until such time as the household can show either that it has further deductions or has a disabled member, it appears that methodology used by the Department to determine the petitioner's benefit level is correct and thus must be upheld by the Board. 3 V.S.A. § 3091(d).

###

1. The Social Security regulations for determining disability list hearing impairments as having the requisite level of severity if:

A. Average hearing threshold sensitivity of air conduction of 90 decibels or greater and for bone conduction to corresponding maximal levels, in the better ear, determined by the simple average of hearing threshold levels at 500, 1000 and 2000 hz: or

B. Speech discrimination scores of 40 percent or less in the better ear.

20 C.F.R. § 404, Subpart P, Appendix 1

2. If the petitioner is able to prove disability, she would also get more generous deductions under the regulations as a disabled person. F.S.M. § 273.9(d).