

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,113

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare reducing her Food Stamp grant based upon an increase in available income. The issue is whether the Department deducted a correct amount for shelter expenses.

FINDINGS OF FACT

1. The petitioner receives Food Stamps on behalf of herself and her four-year-old child. The petitioner's sole source of income is \$513 per month in ANFC benefits but she also lives in a federally subsidized apartment (Section 8) which limits her rental contribution to \$137 per month. 2. Included in her rent is her heating fuel, but not her electricity which she pays herself. Her hot water and stove run on electricity. Often, in the winter, she uses electric space heaters to supplement the oil heat provided by the landlord (which she feels is inadequate). She pays the electricity on a budget plan which costs her \$65 per month year round. She pays her phone bill herself which costs \$28.45 per month for the basic charge.

3. On September 14, 1994, the Department sent the petitioner a notice that her Food Stamp benefits would decrease from \$167 to \$117 on October 1, 1994 due to a change in the Department's shelter and utility allowance standard. Prior to October 1, the Department gave the petitioner the maximum fuel and utility standard of \$312 per month because the Department uses a methodology which presumes that all persons eligible for fuel assistance pay for heating expenses. The petitioner, as a fuel assistance recipient, got the higher standard without regard to whether she actually paid for fuel. However, new regulations issued for the fuel assistance program rendered the petitioner ineligible for assistance because her landlord is actually required to supply her fuel. Because she was not considered vulnerable to fuel expenses, a lower standard of \$117 per month was used to figure her Food Stamps.

4. The petitioner did not claim that she has utility expenses above the \$93.45 she actually reported each month, although she was told by her worker that she could get amounts in excess of the \$117 standard if her actual monthly utility expenses exceeded that amount.

5. The petitioner argues that the higher fuel allowance should be used to calculate her benefits, not because she has fuel liability, but because she has a child who needs a special diet because she cannot tolerate soy, beef, turkey, and cow's milk. That diet costs her more than usual but she did not present any evidence of the amount. She also states that the special diet requires more cooking but that amount is already included in her electric bill figures.

ORDER

The decision of the Department is affirmed.

REASONS

It is not hard to understand the consternation which the petitioner feels as to why she should lose \$50 per month in Food Stamps when her financial situation is the same as it was last year. (She will presumably lose even more when she does not get a fuel assistance check.) Pursuant to authority in the Food Stamp regulations, the Department actually adopts three separate standards, one for utilities and heat, one for utilities without heat and one for households which have only a telephone expense. F.S.M. § 273.9(d)(6)(v), Procedures Manual 2510 (E)(2). If actual expenses for fuel or utilities are higher than the standardized amounts, the actual figures may be used instead (except for telephone charges). F.S.M. § 273.9(d)(6)(vii), P 2510 (E)(2).

The Department's regulations have a provision built in whereby all persons who receive energy assistance payments under the LIHEAP (fuel assistance) program are automatically eligible for the heating utility allowance. F.S.M. § 273.9(d)(6)(ii)(B). Last year, because the petitioner was eligible for the LIHEAP program, she automatically became eligible for the higher utility allowance (now \$312, P 2590(A)(5)), even though she had no fuel expenses to pay herself. This year, because the petitioner is no longer eligible for LIHEAP, ⁽¹⁾ she must show that she receives heating bills on a regular basis to be placed in the higher category. F.S.M. § 273.9(d)(6)(ii)(C). If a Food Stamp recipient has only erratic or occasional excess charges, the non-fuel standard must be used, but actual expenses can be taken into account. F.S.M. § 273.9(d)(6)(ii)(C).

This year, the petitioner could not show that she is responsible for the fuel in her apartment and so was given the lower standard of \$117. See P 2590(A)(5). Neither could she show that she should have received a higher amount than the standard figure because of expenses in excess of the standard. Her expenses for utilities are, in fact, about \$20 lower than the standardized amount, even with her occasional heating expense. It must be concluded, therefore, that the use of the lower allowance was correct.

As there are no regulations allotting additional coupons for persons who need special diets, it must be found that the petitioner's Food Stamps were recalculated correctly in accordance with the Department's regulations.

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1. The petitioner does not argue that she should have been found eligible for fuel assistance. She specifically agreed with that decision.