

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,227

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Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare reducing her food stamps. The issue is whether payments received by the petitioner as a VISTA volunteer constitute excluded income under the pertinent food stamp regulations.

FINDINGS OF FACT

The facts are not in dispute. In June, 1994, the petitioner applied for food stamps in Massachusetts, where she was then living. While that application was pending the petitioner got a job on a farm. Although she did not hold the job long, her food stamp application was denied, and she did not file a timely appeal.

The petitioner moved to Vermont on August 1, 1994, the same day that she started working as a VISTA volunteer. On August 2, 1994, the petitioner filed an application for food stamps in Vermont. The application was granted, but when the petitioner began receiving her VISTA payments (\$662 a month) the Department reduced her food stamps (effective November 1, 1994) from \$115 to \$65 a month.

The petitioner does not dispute the crucial fact in this matter (see infra) that when she applied for food stamps in Vermont she had already joined the VISTA program. The hearing, held on December 9, 1994, was continued to allow the petitioner to attempt to reopen her Massachusetts application. On February 2, 1995, the petitioner informed the hearing officer that she had been unsuccessful in that effort.

ORDER

The Department's decision is affirmed.

REASONS

The food stamp regulations provide that all income except that specifically excluded shall be counted in determining a household's benefits. Food Stamp Manual

§ 273.9(b). Under "Income Exclusions", § 273.9(c)(10)(iii) of the regulations provides as follows:

Any payment to volunteers under Title II (RSVP, Foster Grandparents and Others) of the Domestic Volunteer Services Act of 1973 (Pub. L. 93-113) as amended. Payments under Title I of that Act (including payments from such Title I programs as VISTA, University Year for Action, and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Stamps or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Stamp participation shall not alter the exclusion once an initial determination has been made. New applicants who were not receiving public assistance or Food Stamps at the time they joined VISTA shall have these volunteer payments included as earned income.

(Emphasis added.)

As noted above, the petitioner does not dispute that she started VISTA one day before she applied for food stamps. Unfortunately, the petitioner was not successful in reopening her earlier application in Massachusetts, which could have led to a finding that she was receiving food stamps before she joined VISTA. The petitioner (despite having consulted with an attorney) also presented no argument that the above regulation is inconsistent with any federal statutes governing either the food stamp or VISTA programs.

Inasmuch as the Department's decision is in accord with the regulations the board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

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