

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,738

)

Appeal of)

)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare terminating his Food Stamps based on an increase in his income which the Department determined placed him above the program maximum income level.

FINDINGS OF FACT

1. The petitioner is a sixty-one-year-old man who suffered a debilitating series of heart attacks in July of 1994. He was forced to quit after thirty-four years of working and lost his health insurance as a result. He applied for Social Security disability benefits shortly after this event but was not determined eligible until July 1, 1995. In the interim he and his wife were found eligible for the maximum Food Stamp benefits of \$212 per month for a household of two.
2. The petitioner was awarded Social Security benefits of \$806 per month to begin July 1, 1995. The Department added that anticipated income to the petitioner's wife's Social Security income of \$401 per month for a total gross income of \$1,207 per month. A standard deduction of \$134 was deducted from that amount for a total countable income of \$1,073 per month. No other deductions were included in figuring gross income. That figure was compared to the maximum net income for 2 people of \$820 per month and the petitioner was determined to be over income.
3. The petitioner was notified in a letter dated June 15, 1995, that his Food Stamp benefits would be terminated on July 1, 1995, based upon the household's receipt of income in excess of that allowed by the Department.
4. The petitioner appealed that decision because the \$1,207 he receives each month does not cover his regular expenses. His monthly expenses include \$163 for rent on his mobile home, \$175 for food (including special sugar free foods which he must eat), about \$20 for taxes, \$30 for gas, \$60 for

electricity, \$65 for telephone, \$25 for cable TV, \$145 for car insurance, \$18 for prescriptions (some of his prescriptions are paid for by the Veterans Administration) and \$147 for credit card debt, for a total of \$848 per month. In addition he owes about \$800 to the hospital for medical expenses not covered by insurance and \$50 on a personal loan. The petitioner states that this leaves him little for fuel oil in the winter, gas for his car or clothing and home repairs. He is worried that his mobile home park rent will rise, that he will have medical expenses which he cannot pay and that he cannot afford to repair a plumbing problem he has at his home. He has never applied for Medicaid benefits.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner's (and his wife's) Social Security benefits must be considered and counted as unearned income when eligibility for Food Stamps is determined. F.S.M. 273.9(b)(2)(ii). Because the petitioner is disabled, his household is required only to meet the net income, not the gross income, eligibility standards in the Food Stamp program. F.S.M. 273.9(a). The maximum net income for a two person household is \$820 per month.

Net income is determined by allowing certain deductions from gross income pursuant to the regulations at F.S.M. 273.9(d)(1-8). Deductions potentially applicable here can be summarized as follows:

- (1) A \$134 standardized deduction available to everyone. See P-2590A (1).
- (2) A deduction for medical expenses (including medical and dental care, prescriptions, hospitalization and health insurance policies) in excess of \$35 per month.
- (3) A deduction for shelter expenses which are in excess of 50 percent of the household's income after (1) and (2) above are deducted. Shelter expenses include the cost of mortgage or rent payments (including lot rent), property taxes, insurance payments on the dwelling, heating and cooking fuel, cooling, electricity, sewerage, garbage and trash collection, and basic telephone service.

The petitioner was given the standard deduction in this case. The second deduction for excess medical expenses was not given to the petitioner. Although the petitioner has a large unpaid hospital bill, he presented no information indicating that he is paying that bill and that his outlay for medical expenses is in excess of \$35 per month. The Department is correct in not giving him that deduction.

The petitioner indicated in his testimony that he has certain housing expenses although he did not specify his fuel expenses in the winter. He has lot rent of \$163 per month, property taxes of \$20 per month and countable utility payments of about \$150 per month (without heat). That amount added together is \$333 which must be compared to his countable income of \$1,073 per month (\$1,207 minus the \$134 standard deduction.) That amount is well under 50% of his countable income which would be \$536 per month. However, without his heating fuel amount, that comparison is not fair or complete.

The Department has established certain standard utility allowances which are used to help calculate shelter expenses. F.S.M. 273.9. If those amounts are substituted for the petitioner's actual expenses, a

fairer assessment of his situation can probably be reached. The standard utility allowance (including heat, hot water, electricity, sewerage, basic phone and garbage collection) is \$312 per month. P-2590A (5). If that amount is added to the lot rent (\$163) and property tax figure (\$20), a total shelter cost of \$495 per month is obtained which is probably more realistic in that it adds in about \$150 per month for heating costs. Yet even the more generous standardized figure does not reach the \$536 figure which would trigger a deduction for the petitioner.

It must be concluded, based on the evidence that petitioner gave to the Department, that all of the deductions to which he was entitled have been allowed. As the net from these deductions, \$1,073, is greater than the maximum of \$820, the petitioner's Food Stamps were correctly terminated.

If the petitioner has evidence showing that he is paying more monthly medical expenses than the \$18 he reported or that his shelter expenses are actually more than \$495 per month, he should present that evidence to the Department immediately for a redetermination on his eligibility. (The petitioner should note, however, that he would need \$253 more per month in deductions to be eligible for even \$10 in Food Stamp benefits.) The petitioner is also encouraged to apply for Medicaid benefits to see whether he might be eligible for benefits under that program.

###