

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,782

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Appeal of )

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare terminating her Food Stamp benefits based upon the purchase of a licensed vehicle with a value determined to be in excess of Department resource maximums.

FINDINGS OF FACT

1. The petitioner is the single mother of four children aged eight through fifteen. She works full-time as an employee of a motel where she earns about \$1,000 per month in addition to the \$150 per month she receives in child support. Until recently she also received \$282 per month in Food Stamp benefits. Neither the petitioner nor any of her children is disabled.
2. On February 27, 1995, the petitioner decided to replace her ailing 1991 Pontiac Sunbird with a newer, but used, 1994 model. The total purchase price of the vehicle was \$14,793.20 and she financed \$10,365.75 of that amount over a five year period of time with monthly payments of \$237.67 each. The monthly payments after this purchase were no more than she was making on her prior automobile.
3. The petitioner uses the Sunbird, a mid-sized four door vehicle, to commute back and forth to work each day, a distance of some sixty miles, round trip. She also uses the car to run family errands. Without the car, she would be unable to work, transport her children to medical appointments or shop at the larger more economical supermarkets which are some twenty miles away.
4. The purchase of the car was reported to the Department which in June of 1995, set a value on the car of \$7,400 based on the lowest possible Blue Book value. The petitioner does not argue that her car is worth any less than \$7,400.
5. The petitioner was allowed a \$4,500 exemption on the value of the vehicle with a remaining resource

value attributed to her of \$2,900. The petitioner was notified on June 28, 1995, that the vehicle's value placed her over the \$2,000 resource maximum<sup>(1)</sup> and that her Food Stamps would be terminated effective August 1, 1995.

6. The petitioner appealed the termination of her benefits on July 7, 1995, but did not request that benefits continue. Her Food Stamps were cut off on August 1, 1995.

### ORDER

The decision of the Department is affirmed.

### REASONS

The regulations governing the Food Stamp program require that all resources of a household be evaluated when determining eligibility with certain specific exclusions, among those exclusions being "licensed vehicles" in certain circumstances. F.S.M. § 273.8 (e)(3). The method for setting a valuation on vehicles is set forth in detail in the regulations which provide, in pertinent part, as follows:

The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books". The State agency shall insure that the blue book used to determine the value of licensed vehicles has been updated within the last 6 months. The National Automobile Dealers Association's (NADA) Used Car Guide Book is a commonly available and frequently updated publication.

The State agency shall assign the wholesale value to vehicles. If the term "wholesale value" is not listed in a particular blue book, the State agency shall assign the listed value which is comparable to the wholesale value. The State agency shall not increase the based value of a vehicle by adding the value of low mileage or other factors such as optional equipment.

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F.S.M. § 273.8(h)

The regulations also set forth in a very detailed way,

criteria for counting or excluding the value of a licensed

vehicle:

The value of licensed vehicles shall be excluded or counted as a resource as follows:

1. The entire value of any licensed vehicle shall be excluded if the vehicle is:

i used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat. Licensed vehicles which have previously been used by a self-employed household member engaged in farming but are no longer used over 50 percent of the time in farming because the household member has terminated his/her self-employment from farming shall continue to be excluded as a resource for one year from the date the household member terminated his/her self-employment from farming;

ii annually producing income consistent with its fair market value, even if used only on a seasonal basis;

iii necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household), for example, the vehicle of a traveling sales person or of a migrant farmworker following the work stream;

iv used as the household's home and, therefore, excluded under paragraph (e)(1) of this section; or

v necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

2. The exclusion in parts H.1.i through iv will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

3. All licensed vehicles not excluded under (h)(1) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds \$4,500 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value of \$5,500 shall have \$1,000 applied toward its resource level. Any value in excess of \$4,500 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall not be added together to reach a total fair market value in excess of \$4,500.

4. Licensed vehicles shall also be evaluated for their equity value, except for:

i Vehicles excluded in paragraph (h)(1) of this section;

ii One licensed vehicle per household, regardless of the use of the vehicle; and

iii Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are being considered available to the household) to and from employment or to and from training or education which is preparatory to employment, or to seek employment in compliance with the employment and training criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during temporary periods of unemployment. The equity value of licensed vehicles not covered by this exclusion, and of unlicensed vehicles not excluded by paragraphs (e)(3), (4), or (5) of this section shall be attributed toward the household's resource level.

5. In the event a licensed vehicle is assigned both a fair market value in excess of \$4,500 and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. If the fair market value is \$5,000 and the equity value is \$1,000, the household shall be credited with only the \$1,000 equity value, and the \$500 excess fair market value will not be counted.

6. In summary, each licensed vehicle shall be handled as follows: First it will be evaluated to determine if it is exempt as an income producer or as a home. If not exempt, it will be evaluated to determine if its fair market value exceeds \$4,500. If worth more than \$4,500, the portion in excess of \$4,500 for each vehicle will be counted as a resource. The vehicle will also be evaluated to see if it is equity exempt as the household's only vehicle or necessary for employment reasons. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than \$4,500 and also has a countable equity value, only the greater of

the two amounts shall be counted as a resource.

F.S.M. § 273.8(h)

Under the above regulations, the petitioner's recently purchased vehicle cannot be excluded from the resource evaluation process because it is not used primarily to produce income; is not necessary for long distance travel other than daily commuting essential to the employment of a household member; is not used as the household's home; and is not necessary to transport a physically disabled household member. Therefore, the Sunbird is subject to an evaluation procedure which begins with a determination of its "wholesale value".

It is not clear whether the value used by the Department is the "wholesale" value. However, as the Department used the lowest figure in the Blue Book, which is almost exactly half of what the petitioner paid for the car a few months earlier, and as the petitioner does not disagree with the valuation, there is no reason to suspect that value is in excess of any "wholesale" value that might be listed in a bluebook. Therefore, the \$7,400 figure provided by the Department will be used as the fair market value for this car. The portion of the value which exceeds \$4,500, or \$2,900 must thereafter be "attributed in full toward the household's resource level, regardless of any encumbrances on the vehicle."

The resource limit under the Food Stamp program for households without an elderly member is \$2,000. F.S.M. 273.8(b). It must be found that the Department's assessment of the resource value of the petitioner's vehicle is in accordance with its regulations. As such, the Board is bound to affirm the

Department's decision. 3 V.S.A. § 3091(d). The petitioner should be aware that the above regulations which often have a harsh effect, were promulgated in order to prevent persons who have "luxury" cars from obtaining Food Stamps even though they cannot convert the value of the vehicle into money to be used for family support. The federal statute and regulations, which have not been changed in many years, continue to define "luxury" as any value over \$4,500. The petitioner may reapply for Food Stamps at any time and can re-establish her resource eligibility if her automobile has depreciated another \$900.

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1. The Department originally valued the car at \$10,000 but subsequently lowered the valuation. The original notice stated that she was \$3,500 above the \$2,000 resource limit. The Department's current position is that she is \$900 over the resource limit.