

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,826

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare (DSW) reducing her food stamps. The issue is whether the Department should continue to count as a deduction from the petitioner's income a fuel and utilities allowance despite the fact the petitioner's fuel and utilities are included in her subsidized housing rent.

FINDINGS OF FACT

The facts are not in dispute. The petitioner applied for food stamps and fuel assistance in 1994. At that time, she was living in a subsidized housing unit and her fuel and utilities were included in her rent. The Department found her eligible for fuel assistance, and allowed the petitioner a deduction of \$265.29 a month from her income as a "fuel and utility deduction" in computing her food stamps.

In July, 1995, at a regularly scheduled review, the Department discovered that the petitioner's case had been wrongly "coded" in its computer as showing that the petitioner paid separately for fuel and utilities in addition to her rent. The Department informed the petitioner that because of this error the petitioner had erroneously been found eligible for fuel assistance in 1994-1995 and had erroneously been allowed a deduction from her food stamp income of \$265.29 for fuel and utilities. This resulted in a decrease in the petitioner's food stamps from \$79 to \$10 a month commencing August 1, 1995.

At the hearing the Department admitted that any "overpayment" of food stamps that occurred prior to August 1, 1995, resulted solely from the Department's error, and that the petitioner would not be liable to have this overpayment involuntarily recouped from her ongoing food stamps.

ORDER

The Department's decision is affirmed.

REASONS

Food Stamp Manual (F.S.M.) § 273.9(d)(5) provides that food stamp households are entitled to a formula-derived "household shelter deduction" from their income. In determining this deduction certain household "costs" are taken into consideration. Included in these allowable costs are rent and utilities. F.S.M. § 273.9(d)(6)(ii) provides for a separate "standard utility allowance" that is "available only to households which incur heating and cooling costs separately and apart from their rent or mortgage".

In this case the Department initially allowed the petitioner an allowance for both her rent, which included utilities, and a separate utility allowance, which under the above regulation the petitioner was not eligible for. The Department's correction of this error is what caused the decrease in the petitioner's food stamps.

It now appears that the Department has correctly calculated the petitioner's food stamps based on her family's composition, income, and housing situation. Therefore, its decision in this matter must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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