STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,849

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare reducing his food stamp benefits. The issue is whether the petitioner's standard utility allowance should be prorated to reflect the fact that he shares living arrangements with another individual.

FINDINGS OF FACT

The facts are not in dispute. The petitioner lives in a rooming house and shares room rent with another individual. Heat and utilities are included in the petitioner's and his roommate's rent. The petitioner is a recipient of food stamps; his roommate is not. Prior to September, 1995, the petitioner received food stamps of $115 a month.

In August, 1995, the Department, as part of a routine random quality control review of the petitioner's case, discovered that it had erroneously allowed the petitioner a full standard utility allowance deduction from his income in its determination of the petitioner's eligibility for food stamps. On August 21, 1995, the Department mailed the petitioner a notice stating that effective September 1, 1995, his food stamps would be reduced from $115 to $94 a month. The only explanation provided by the notice was that his "allowed shelter and utility costs went down".

The petitioner appealed the decision because his shelter expenses had not, in fact, decreased. At the hearing, the Department provided the petitioner with copies of documents explaining the quality control decision that had taken place. The Department concedes that the petitioner correctly informed the Department of his living arrangements, and that any prior "overpayment" of food stamps to the petitioner before the Department discovered the error was entirely due to the Department's own administrative error.[(1)] For his part, the petitioner does not dispute that if the regulations provide that his standard utility allowance should be prorated, the Department has correctly calculated his food stamps.

ORDER

The Department's decision is affirmed.

REASONS

Food Stamp Manual § 273.9(d)(6)(viii) includes the following provision:

If the household shares utility expenses with, and lives with, another individual not participating in the food stamp program...the (standard utility) allowance shall be prorated among the household and the other individual...

In this case it appears that prior to September 1, 1995, the Department had erroneously calculated the petitioner's food stamps by allowing him a full standard utility allowance even though the petitioner had reported that he was living in a shared rooming house situation. Inasmuch as the Department's decision that "corrected" this error is in accord with the applicable regulations, it must be affirmed. 3 V.S.A. § 3091(d).

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1. This means that any overpayment of food stamps cannot be involuntarily recouped from the petitioner. See Food Stamp Manual § 273.18.