STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,116

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare to reduce her Food Stamp benefits based on an increase in her earned income.

FINDINGS OF FACT

1. The petitioner is a woman who receives $449.91 per month in SSI income and who also works. Her income varies from month to month but for December of 1995, the month at issue, her earned income was $169.85 per month, an increase of over $75 from the month before.

2. In December of 1995, the petitioner moved into an apartment she shares with a friend in order to reduce her shelter costs. She and the friend split the expenses of the apartment which are $400 per month for rent and something less than $312 per month (the maximum standard utility allowance under the regulations) for heat and other utilities. The Department added the $400 rent to the maximum utility allowance set by the regulations of $312 per month for a total monthly shelter expense of $712. Half of that amount, or $356, was assigned to the petitioner as her portion of the shelter expense.

3. Upon learning from the petitioner that her earned income had increased and that her shelter expenses had decreased during December of 1995, the Department recalculated her eligibility for assistance. She was given a twenty percent deduction from her earned income which resulted in countable income of $135.88 per month. That amount was added to her SSI income of $449.91 for a total of $585.79 per month. That amount was further reduced by a standard deduction of $134 per month. That adjusted income figure, $451.79, was divided in half to determine what amount of her shelter she could be expected to pay, or $225.90. The $225.90 was compared with her shelter expense of $356 per month. The difference between those two figures, $130.10, was considered an excess shelter amount and was deducted from her adjusted income figure for a total countable net income of $321.69.

4. On December 14, 1995, the petitioner was notified that her Food Stamp benefits would be reduced from $116 to $22 per month based on the $321.69 countable income.

5. The petitioner appealed that decision because her income fluctuates from month to month. At the time of the hearing, she had not yet reported to the Department the changes in her income for January of 1996, and did not have them available to submit as evidence.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner's Supplemental Security Income benefits must be considered and counted as unearned income when eligibility for Food Stamps is determined. F.S.M. 273.9(b)(2)(ii). The petitioner's earned income is also countable (F.S.M. 273.9(b)(1)), but twenty percent of that income is excluded. F.S.M. 273.9(d)(2). The total sum of those two types of income is then subjected to further deductions before a countable income figure is obtained. F.S.M. 273.9(d).

Net countable 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 of $134. The second deduction for excess medical expenses was not given to the petitioner because she presented no evidence that she has such expenses.

The regulations allow a deduction for household shelter expense as follows:

ii. Household Shelter Deduction

Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1),(2), (3) and (4) of this section have been allowed. The shelter deduction shall not exceed the maximum limit established for the area. This is applicable unless the household contains a member who is elderly or disabled as defined in 271.2. Such household shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions . . . [(1)]

The petitioner did not present any evidence that the total shelter expense she has to pay is more than the $356 attributed to her.[(2)] That amount when compared with half of her income after the standard

deduction, or $225.90, shows a difference of $130.10 which is then deducted from her income as an excess shelter amount. The final net income figure for Food Stamp purposes under the regulations must be $321.69. That is the figure arrived at by the Department. The Department's decision that the petitioner is eligible for $22 for the month of January 1996, based on the increase in her December 1995, income and the decrease in her shelter expenses is based on the tables in its procedures manual which prescribe that level of stamps for a single person household with countable income of $321.69. P-2590D (4). The petitioner has not shown the regulations or procedures to be illegal or invalid and so the action reducing her Food Stamps must be upheld by the Board. See. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The Vermont maximum excess shelter deduction is $231. P-2590A(1). However, that maximum does not apply to the petitioner because she is disabled.

2. The maximum utility allowance available for a household which pays all heat and utilities is $312 per month. P-2590(A)(5).