

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,662

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying his request for a direct payment to him for the cost of his heating fuel.

FINDINGS OF FACT

1. The petitioner is a disabled SSI recipient who lives alone in a camp which is heated by wood. He received an application form and applied for fuel assistance during August or September of 1996 and was subsequently found eligible for benefits.
2. At the same time that he was filling out the application, the petitioner arranged to buy six cords of wood from an acquaintance who was leaving the state and had no further need of it. He agreed to pay \$500 for the wood which was delivered to him and which he has been using.
3. The petitioner erroneously thought that he would get a direct check from the Department to pay for his heating fuel as he had in previous years. However, he only realized for the first time in November of 1996 after receiving his eligibility award and talking to the Department that his acquaintance could not be paid because he was not a certified wood dealer.

ORDER

The decision of the Department is affirmed.

REASONS

By Public Act 158 enacted during the 1995 adjourned session (1996), the Vermont General Assembly established a state-funded home heating fuel assistance program for low-income households which requires, among other things, that payments be made directly to fuel suppliers, and not to consumers. The Department is required by statute to certify those fuel suppliers who can receive direct payment and those suppliers must sell wood "in the normal course of business" in order to be certified. 33 V.S.A. §§ 2604, 2607(a) and (d). This program is funded both through appropriations from the General Assembly

and funds from the federal government through the Low Income Home Energy Assistance Act.

Pursuant to that Act, the Department overhauled its fuel assistance program and promulgated new regulations effective September 1, 1996, setting criteria for assistance under this program. Among these criteria are provisions linking eligibility and payment of benefits to persons who receive heating assistance from "certified fuel suppliers":

Only those households that bear direct responsibility

for payments to certified fuel suppliers, as defined in Section 2912, for their primary heating fuel are eligible for assistance. . . .

W.A.M. § 2901.2

Benefits will be issued on behalf of an eligible household in the form of a line of credit established by the Department of Social Welfare with the primary heating fuel supplier identified by the household in its application form, provided that the supplier has been certified as described in Section 2912.

. . .

W.A.M. § 2907.1

Section 2912 establishes extensive requirements for certification as a fuel supplier, including recordkeeping and verification of amounts of fuel used by recipients, guarantees with regard to size and timing of deliveries and costs of fuel, and specific reporting and accounting requirements to the Department and the consumer. A copy of that regulation is attached to this decision.

The Department, relying on the above regulations, has refused to pay the petitioner directly for his fuel benefits or to pay his acquaintance who, the petitioner agrees, is not a certified wood dealer. The petitioner does not argue that the regulations are illegal only that the person who provided the wood to him deserves to be paid.

The petitioner's frustration in this matter is understandable because he got a good deal on the wood and wants to pay the man who provided it to him. However, that provider cannot be paid under the new fuel program which allows only for direct payment to certified providers. In this feature it is much like the Medicaid plan which does not pay individuals to purchase their own health care but rather pays certified professionals to provide it to eligible recipients. As was discussed in Fair Hearing No. 14,621, this plan was enacted by the legislature and put in place by the Department to eliminate fraud and ensure the efficient use of scarce fuel assistance funds.

It was also pointed out in Fair Hearing No. 14,621 that every application for fuel assistance this year contained an "information page" which notified applicants that checks would not be sent this year to those found eligible but instead a line of credit would be established with primary fuel suppliers. Although there was no definition of primary fuel supplier in that notice, it should have been clear to the petitioner, if he had read that notice, that obtaining payment for fuel obtained from friends or acquaintances who are not in the fuel business would be prohibited. Some more care might have helped him to have avoided the predicament he has found himself in. That predicament cannot be resolved by

requiring the Department to waive, suspend or violate its own regulations.

The petitioner should be aware that his line of credit will revert to the Department if it is not used by April 30, 1997. W.A.M. § 2907.4. If he wishes to benefit from that credit, he should contact the Department for the name of a certified wood dealer and arrange to have the wood provided to him. Perhaps he can sell the wood provided by the acquaintance to recover some of the money owed to him.

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