

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,691

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare deducting from her 1996-97 Fuel Assistance benefits a credit of \$93.20 she had with her fuel supplier following the 1995-96 heating season. The issue is whether such a reduction is required by the Fuel Assistance regulations.

FINDINGS OF FACT

1. The petitioner is a working single mother who was found eligible for the heating assistance program for the current heating season. At the same time she was notified of her eligibility in November of 1996, she was also advised that \$93.20 would be deducted from her benefits because she had a credit with her fuel supplier (an electric company) from the last heating season.
2. The petitioner does not dispute that she had a \$93.20 credit on her electric account as of June 1, 1996. That credit was not based on funds left over from her heating assistance money from the year before but rather was the residue of a \$300 deposit which she chose to have credited to her account rather than returned to her. Her fuel assistance check from the prior year was used up by January 23, 1997. She still had a balance of \$250.41 for electricity she used for heating which was paid through the security deposit and other payments made by the petitioner herself. The credit on her account was used to pay for non-heating related electricity costs in the spring and summer.

ORDER

The Department's decision is affirmed.

REASONS

Under the statutes in effect prior to this year's heating season, recipients were allowed to carry credit balances of under \$300 with their fuel dealers without any reduction or penalty in their Fuel Assistance. This year the Vermont legislature amended the state statutes dealing with the Fuel Assistance program beginning with the 1996-97 heating season. In dropping the \$300 limit and requiring fuel dealers to remit all credit balances to the Department at the end of each heating season (see 33 V.S.A. § 2607(g)), the legislature, in repealing the prior provision regarding credit balances, specified:

...any recipient with a credit balance without regard to source on the effective date of this act shall have that balance applied to the calculation of benefits to that recipient under the home heating fuel assistance program established by this act.

Id. § 131. Repealed. 1995, No. 158 (Adj. Sess.), § 4, eff. May 10, 1996, (emphasis added).

The above statute makes it clear that those who have funds available to pay for fuel are not going to get as much as those who have nothing available. The fact that the money came from their own private funds is not relevant under the above statute which requires a deduction for all credits without regard to source. The Department's regulation follows that statutory requirement by requiring that "any outstanding balance held by a fuel supplier on June 1, 1996 on behalf of an eligible household regardless of source, will be deducted from that household's benefit amount as determined . . . above." W.A.M. § 2906.2(g). As the Department's decision in this matter is in accord with its regulations, and those regulations are in accord with the pertinent state statute, the board is bound by law to affirm that decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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