

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,695

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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 \$64.12 she had with her fuel oil 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 fifty-three-year-old woman who has multiple sclerosis and is bedridden. She lives alone in a single-family home owned by her and heats that home with oil. She receives income from SSDI and SSI in the amount of \$544.91 per month and has been a recipient of fuel assistance benefits from the Department of Social Welfare in the past.
2. On or about June 1, 1996, the petitioner's fuel oil supplier reported to the Department of Social Welfare that she had a \$64.12 credit from the last heating season. The petitioner does not dispute the correctness of that figure.
3. During the summer of 1995, the petitioner made a timely application for fuel assistance for the upcoming 1996-1997 season. The petitioner purchased 100 gallons of fuel on August 19, 1996, using up all of the credit from the year before.
4. On November 25, 1996, the Department notified the petitioner that she had been found eligible for fuel assistance for the period from November 1, 1996, through March 31, 1997. She was advised that her first line of credit covering November 1 through December 31 would be in the amount of \$169. That figure included a deduction for the \$64.12 reported by her fuel supplier as a credit in her account on June 1, 1996. Her second line of credit, to be transferred in February for the January through March period, was estimated to be \$328.
5. On December 7, 1996, the petitioner needed to buy another 100 gallons of fuel oil. She appealed the Department's decision to deduct the \$64.12 from her payments. She protests that it is in effect a penalty because she was careful and saved fuel last year. She points out that she could have taken a refund on that credit and used it for anything else and it would not have been counted against her. She feels that she should not have the money deducted because she actually used it to pay for fuel and because her

total fuel assistance grant will not pay for her entire fuel bill.

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 Repealed. 1995, No. 158 (Adj.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

The petitioner's perception that she is in effect being penalized for her frugality may not be incorrect. However, 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 she used that credit for oil for this season and that she will not get enough assistance to cover all her fuel costs are not relevant to this determination. As the Department's decision in this matter is in accord with its regulations, and those regulations are in accord with the pertinent state statutes, 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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