

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,707

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare that an overpayment of Food Stamps to her of \$820 was the result of inadvertent household error. The issue is whether the petitioner made a timely report to the Department of her earnings from employment.

FINDINGS OF FACT

The petitioner began receiving Food Stamps in January, 1996. At the time her only income was from providing child care in her home. The petitioner reported this income to the Department at the time of her application, and it is not an issue in this appeal.

In late March, 1996, the petitioner began working as a waitress at a restaurant. At the hearing in this matter, held on July 1, 1997, the petitioner testified that shortly after she began working at the restaurant she mailed a report of change form to the Department with copies of her first two weekly paystubs. She stated that when she did not hear back from the Department and continued receiving the same amount of Food Stamps she assumed that her Food Stamp grant was unaffected by the increase in her income.

The Department has no record or knowledge of receiving this information from the petitioner. In August, 1996, the petitioner's employment showed up on a routine computer check by the Department of information provided by the Department of Employment and Training (DET). When the Department sent the petitioner's employer a request for verification of the petitioner's earnings, the employer informed the petitioner of this inquiry. The petitioner states she then called the investigator and was told that there would not be a problem.

Upon receiving the information from the petitioner's employer the Department determined that the petitioner had been overpaid Food Stamps from May 1 to October 31, 1996, totalling \$820 due to the petitioner's "inadvertent household error" in not reporting her earnings in a timely manner. The petitioner does not dispute the amount of the overpayment. She maintains, however, that she reported these earnings in a timely manner and that it is the Department's fault that it failed to take appropriate action.

The petitioner appeared to be a credible individual, and it is found that she attempted to notify the

Department soon after she began her employment. Nonetheless, it must be found that the Department, through no fault of its own, never received this information. It is deemed too unlikely that it would have been received by the Department and then "lost" before it was routed to the petitioner's caseworker. The most likely explanation is that the petitioner made some mistake in addressing or mailing the information, causing it not to be received by the Department.

ORDER

The Department's decision is affirmed.

REASONS

As noted above, the petitioner does not dispute that she was overpaid \$820 in Food Stamps during the period in question. The sole issue is who was at fault in the Department's not receiving a timely report of the petitioner's employment earnings. The Department does not allege that the petitioner did anything intentionally wrong, only that she made some mistake in not getting the required information to her worker in a timely manner.

Under the regulations, overpayments resulting from "inadvertent household error" are subject to involuntary recoupment from the household at a rate of 10 percent of the household's ongoing monthly benefits until the overpayment is repaid in full. F.S.M. § 273.18(g). However, the same regulation specifies that recoupment must be voluntary on the part of the household if the overpayment resulted from the Department's "administrative error".⁽¹⁾

In this case, as noted above, it must be concluded that it was the petitioner's inadvertent error in not properly mailing the information in question to the Department. Therefore, the Department's decision must be affirmed.

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1. The petitioner has not received Food Stamps since October, 1996, and does not expect to need to reapply for them in the foreseeable future. Any recoupment will only take place if and when the petitioner again applies and is found eligible for Food Stamps.