

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,715

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare deducting from her 1996-97 Fuel Assistance a credit of \$211.95 owed to her by her wood supplier following the 1995-96 heating season. The issue is whether such a reduction is required by the Fuel Assistance regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is an elderly woman whose sole income is SSI benefits. She has a representative payee who looks after her affairs and attends to her needs.

Prior to the 1995-96 heating season the petitioner's payee, out of some modest savings the petitioner had accumulated, purchased a supply of wood for the petitioner. During the 1995-96 heating season the Department distributed funds under the Fuel Assistance program by issuing vendor checks directly to recipients' fuel dealers rather than sending checks directly to recipients. The petitioner's wood dealer received her Fuel Assistance vendor payment after the petitioner had ordered and paid for much of her wood for the season. As a result, at the end of the 1995-96 heating season the petitioner's wood dealer was holding a credit in the petitioner's account of \$211.95.

In September, 1996, the Department issued its Fuel Assistance regulations for the 1996-97 heating season. In addition to continuing the practice of issuing vendors directly to recipients' fuel dealers, a new provision (see infra) provided that if a recipient had an outstanding credit with a fuel dealer, that credit would be deducted from the amount of fuel assistance that recipient was to receive for the season.

The outstanding credit the petitioner had with her wood dealer resulted in the petitioner receiving \$211.95 less in Fuel Assistance this year than she would have otherwise received.

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. The petitioner's payee argues that had he known that the regulations were to change he could have used the petitioner's credit of \$211.95 to purchase some of this year's wood for the petitioner at the end of last year's heating season, thus avoiding the reduction in the petitioner's Fuel Assistance for this year's heating season. He maintains that the petitioner is being unfairly penalized for his decision to preorder the petitioner's wood, and to pay for it with the petitioner's own money, prior to the issuance of the petitioner's 1995-96 Fuel Assistance vendor. However, the Vermont legislature appears to have anticipated and rejected this argument when it 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 provisions 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).<sup>(1)</sup>

Although the petitioner's payee makes a sympathetic argument in this matter, it is clear from the above language that, without exception, all recipients with credit balances were to have their 1996-97 benefits reduced by the amount of those balances. It is certainly arguable that the petitioner herein is being penalized due to her payee's ability to manage her money frugally and his diligence in preparing in advance for the petitioner's fuel needs. However, inasmuch 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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1. The Department implemented this provision effective September 1, 1996 at WAM § 2906.2(g).