

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,729

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for fuel benefits. The issue is whether the petitioner's income is in excess of the program maximum.

FINDINGS OF FACT

The facts are not in dispute. The petitioner and his wife are elderly. As of December, 1996, their income consisted of the petitioner's Social Security benefits of \$747.50 a month, the petitioner's pension of \$288.00 a month, and the petitioner's wife's Social Security of \$ \$282.50 a month, for a total of \$1,318.00 a month.⁽¹⁾ Both the petitioner and his wife pay a Medicare premium of \$42.50 a month, which is deducted from their Social Security checks.

In determining the petitioner's eligibility for fuel benefits the Department used the petitioner's gross monthly income (without deducting for the Medicare premiums), allowing the petitioner and his wife only a deduction of \$100 each because of their elderly status. This net income figure--\$1,118--placed the petitioner's slightly over the program maximum of \$1080. The petitioner maintains that the regulations should also take into consideration his and his wife's actual living expenses in determining whether they are eligible for fuel assistance.

ORDER

The Department's decision is affirmed.

REASONS

The fuel regulations specifically provide that unearned income includes gross retirement and Social Security benefits "including the part B Medicare premium". W.A.M. § 2904.2 (2). Of the allowable deductions from income listed in the regulations only a deduction of \$100 for each elderly household member applies to the petitioner and his wife. W.A.M. § 2904.3. As noted above, the maximum net income allowable under the fuel program for a household of two persons is \$1,080 a month. W.A.M. § 2904.1 and Procedures Manual § P-2905 A.

The petitioner's countable income is only \$38 a month in excess of the program maximum. However, based on the information provided by the petitioner,⁽²⁾ it must be concluded that the Department's decision is in accord with the applicable regulations. Therefore the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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1. The petitioner's and his wife's Social Security benefits increased as of January 1, 1997; but the Department used their December, 1996 benefits in determining their eligibility for fuel benefits.
2. The petitioner and his wife speak limited English. They were assisted in the Fair Hearing by their daughter in law.