

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,795

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Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare reducing her ANFC benefits. The issue is whether a fuel and utility subsidy the petitioner receives as part of her section 8 housing subsidy was properly counted as unearned income to the petitioner under the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner receives SSI disability payments for herself and ANFC for a nephew in her care. The petitioner's adult daughter also lives in the home. Prior to January, 1997, the family lived in a one bedroom apartment subsidized by Section 8. The petitioner paid \$155 a month (toward the total rent of \$454), including fuel and utilities.

On January 1, 1997, the family moved to a three bedroom apartment, which was also Section 8 subsidized. The petitioner pays \$148 a month rent (toward a total rent of \$575), but fuel and utilities are not included in the rent--the petitioner pays them herself.

Part of the petitioner's Section 8 subsidy on the new apartment is a fuel and utilities component available only to renters who do not have fuel and utilities included in their rent. The housing authority confirms that this amount comprises \$122 of the petitioner's monthly rent subsidy.

After the petitioner moved the Department notified her that her ANFC would decrease by \$70 because this amount of her fuel and utility subsidy was being attributed as unearned income to her. The petitioner does not dispute any of the above information but is understandably perplexed by the fact that her ANFC decreased at a time when her overall housing expenses increased.

ORDER

The Department's decision is affirmed.

REASONS

W.A.M. § 2252 includes the following definition of unearned income:

\$70.00 of a Housing and Urban Development (HUD) fuel or fuel and utility subsidy or \$30.00 of a utility-only subsidy which has been included in HUD's calculation of the rent of an ANFC family living in subsidized housing, thereby reducing its rental obligation by an equivalent amount. This amount is not limited to a subsidy actually paid to the ANFC family. An applicant or recipient who documents an actual subsidy amount less than the standard may have the actual amount counted as unearned income in benefit and eligibility calculations.

Inasmuch as the petitioner was already receiving the ANFC maximum housing allowance on her old apartment, even though her housing expenses increased when she moved she did not receive any increase in her ANFC.<sup>(1)</sup> Unfortunately, her increased rent subsidy on her new apartment does not offset the increase in total housing costs (rent and utilities) the petitioner now pays out of pocket.

It appears, however, that the Department correctly applied the above unearned income provision to the petitioner's situation. Inasmuch as the Department's decision is in accord with the regulations 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. See WAM § 2245.33.