

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,818

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare denying her fuel assistance because her application was submitted past the deadline for the 1996-1997 heating season.

FINDINGS OF FACT

1. The petitioner lives with her one year old child and his father in a house which they moved into after January 1, 1997. In this house they are responsible for paying for their own heating oil. They moved in January from a rented apartment which included heat in the rent.
2. Because they had no heating obligation prior to January 1, 1997, they did not make an application for heating assistance. The family lives on \$560 per month in ANFC benefits and cannot pay for their heating oil without some kind of assistance.
3. The petitioner filed an application for heating assistance with the Department on January 7, 1997. The petitioner explained in the application that it was filed late

Because I was living in an apartment with heat included. But now we've moved to a house and heat isn't included. We have to pay our own oil to heat and gas to cook. And all of our other electric, cable.

4. On January 21, 1997, the Department notified the petitioner that her application had been denied because she did not submit her application "during the specified application period, August 15 through September 30. After December 31, no exceptions to the application period are allowed."
5. The petitioner applied for and was granted assistance under the emergency fuel assistance program and several payments have been made to her oil dealer on her behalf under that program. The community action program which administers the emergency money has indicated to the petitioner that they intend to continue to assist her under this program.

ORDER

The decision of the Department is affirmed.

REASONS

The Home Heating Fuel Assistance program which was effective May 10, 1996, requires the calculation of benefit amounts annually based on the amount of fuel assistance available, the number of applicants and the cost of heating individual homes. 33 V.S.A. § 2605(c). To that end, the statute requires the Department of Social Welfare to set an application period as follows:

(a) In order to make a timely determination of benefit levels, there shall be an application period during which all beneficiaries shall apply for home heating fuel assistance for the ensuing heating season. The application period shall be from July 15 through August 31 beginning with the 1997-1998 heating season and each heating season thereafter. For the 1996-1997 heating season, the application period shall begin no later than August 15 and extend no longer than 47 calendar days.

(b) The secretary may accept applications after the application period has closed only in unanticipated circumstances or for good cause shown, such as loss of employment of the applicant.

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33 V.S.A. § 2606

The Department adopted the following regulations pursuant to this statute:

For the 1996-1997 heating season (from November 1, 1996 through March 1997), the application period will begin on August 15, 1996, and close on September 30, 1996. For subsequent heating seasons the application period will begin on July 15 and close on August 31.

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W.A.M. 2902.1

Applications received after the close of the application period but not later than November 30, may be found eligible only under one of the circumstances listed in this section. For the 1996-1997 heating season only, the final submission date for an application under one of these circumstances is December 31, 1996.⁽¹⁾

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W.A.M. 2902.2

The petitioners in this case applied for fuel well after the regular application period and shortly after the end of the discretionary application period set forth in the regulations. The Department was acting within its own rules when it denied the petitioner for an untimely application.

The petitioner neither argues that the regulations are inconsistent with the statute nor that they are otherwise illegal. The Department argues that the statute requires some kind of end to the application

process so that the determination can be made as to how many recipients there will be in order to divide up the money among them and to establish benefit levels. Initial benefits are established in December based on the first pool of recipients. New recipients identified after the initial deadline will effect the amount of benefits disbursed in February of 1997. Persons who fall outside that time period can be assisted under the emergency provisions, as happened in this case, which is a separate fund of money.

It cannot be found based on the evidence offered at this hearing that the Department's deadlines are not authorized by statute or are unreasonable. As the Department's decision in this case is consistent with these regulations, its decision must be affirmed by the Board. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

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1. The circumstances listed include loss of income, death, illness, natural disaster, eviction or other compelling reasons. Moving alone is not listed as an exceptional circumstance.