

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 15,815  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare to pay her Food Stamp benefits through electronic transfer. The issue is whether the petitioner is able to use a pin number for an ATM-type card.

FINDINGS OF FACT

1. The petitioner is a sixty-year-old disabled woman who until recently received SSI benefits. When she turned sixty, she received Social Security retirement benefits based on her deceased husband's account for a total of \$661 per month.

2. The petitioner had received Food Stamps for a number of years. When she was an SSI recipient, her Food Stamp benefits (about \$50 per month) were paid to her in the form of a direct deposit into her bank account. In order to buy food (which costs her about \$125 per month), she would go to her bank, about ten miles away, and get cash which she would use at the market. Sometimes she was unable to market for herself and she would give cash to one of her home health aides to do her shopping for her.

3. In early November, after the petitioner was switched to Social Security benefits, her worker told an

aide who was assisting the petitioner that the petitioner was no longer eligible for the "cash-out" payments and that she would receive her Food Stamps through and electronic benefit transfer which required the use of an ATM-type card.

A notice was mailed to the petitioner on December 2, 1998, giving her this information in writing. (This was apparently one day after the transfer had already taken place.) She was also mailed an EBT card and brochures on how to use it and how to establish a PIN number. On December 29, 1998, the Department mailed a second letter to the petitioner in response to her inquiry explaining why she had been changed to a new system and again explaining the need to establish a PIN number to activate the card.

4. The petitioner claims that her disability (fibromyalgia and myofascial pain syndrome) makes her unable to use such a card because she cannot remember a four digit number, even one that she chooses. However, the evidence does not support that contention. The petitioner handles her own money with occasional help from her bank which pays certain bills for her. She has an ATM card to withdraw cash for which she has memorized a four digit number. (The number is related to a date of personal importance to her.)

She claims that she has a memory problem which would prevent her from memorizing a second four digit number, but despite invitations to submit medical evidence in support of

this contention, she has failed to do so.<sup>1</sup> On the contrary, the petitioner was able to remember quite a lot of specific information during the hearing, including amounts of checks, her birthday, dates of her dealings with the Department in the recent past, and her zip code. She also can remember to take medication herself four times per day without assistance.

5. The petitioner also asked that she be allowed to return to "cash out" payments because the EBT card is an inconvenience for her because aides sometimes do her shopping and she does not want to give them her card (although she apparently is willing to give them her money).

However, she herself admits that about \$75 per month of her food bill is paid out of her own cash and could not explain why it was not possible for her aides to use her cash while

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<sup>1</sup> The petitioner contends that sufficient evidence is already in the hands of the Human Services Board from a prior fair hearing, No. 14,753, involving a fuel issue. (The petitioner's medical condition was not relevant in that case and the evidence submitted was not a factor in the decision.) The hearing officer reviewed that file and found two pages therein written by Devin J. Starlanyl with regard to the petitioner's condition. The first page of the report contained over one hundred reported symptoms and the second page discussed possible therapies. Among the hundreds of symptoms listed was "short-term memory impairment". The degree of that impairment was not assessed or discussed in the report. Neither did the report identify the medical qualifications of Devin Starlanyl (there was no letterhead or identifying initials after the signature). The hearing officer concludes that the report is insufficient evidence, particularly in light of the demonstrated evidence to the contrary produced at the hearing, to conclude that the petitioner is unable to remember a four digit code of her own choosing.

she used her card. In fact, she can use her EBT card at her local market which is five miles away while she must travel (with a neighbor providing the transportation) ten miles to get cash from the bank.

6. The petitioner stated that she talked with someone in the federal government who told her that she could not choose her own PIN number and could not let her aides use her card. The Department has assured the petitioner in writing that this is not the case. She has been assured that she can choose her own pin number (including 0000 or 1111) and that she is allowed to give her card to persons who are assisting her with shopping. The petitioner has had money deposited in her EBT account since December of 1998 which she has not accessed. During this time, the petitioner went without medications to pay for her Food. As soon as she establishes a "pin number" the petitioner can access her benefits for the last four months but thus far she has not done so.

ORDER

The decision of the Department is affirmed.

REASONS

The Department's Food Stamp definitions provide as follows:

- "Cash-Out" means the SSI/Elderly Cash-Out Demonstration Project. Vermont was a test site

for this one year project. Legislation has provided for continuance.

- "Cash-Out Household" means a food stamp household in which all members are either in receipt of SSI/AABD or 65 years old or older.
- "Food Stamp Check" means the check or direct deposit payment which will be given to food stamp eligible Cash-Out households as their food stamp allotment.
- "Coupons" means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number.

W.A.M. 271.2

The Department has implemented procedures at P-2510 which require it to roll-over all coupons to electronic benefit payments except for those households, as defined above, who are on a cash-out basis. But for her new Social Security payments status, the petitioner, as a disabled woman on SSI, would have continued in the "cash-out" status and have the money directly deposited in her account.

The above policy appears to be a recognition that using forms other than cash, especially new forms, may be hard for elderly and disabled persons. The Department has the mechanisms in place to direct deposit cash to the petitioner's account if she cannot use the EBT card on account of her disability. In fact, if the petitioner can show that she has a disability which prevents her from using the card, the Department is required to accommodate her under the Americans with Disabilities Act. 42 U.S.C. §

12132.

The petitioner, however, has not shown that she has a disability which would prevent her from remembering a four digit code of her own choosing. While she has alleged memory problems, she gave no indication at the hearing that such a low threshold memory task would be beyond her capabilities and in fact does use an ATM card. In fact, it appears that the card could be an advantage to her because it would enable her or anyone assisting her to withdraw cash for food at a location (the local store) much nearer to her than her bank. The petitioner was advised that she needed to document her claim with a letter from her physician attesting that her disability prevents her from remembering a four digit number of her own choosing. She did not provide this information. At any time that she is able to provide this documentation to the Department, she can be restored to her cash-out status.

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