

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,237  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of PATH denying her application for Supplemental Fuel Assistance. The issue is whether the petitioner's income exceeds the program maximum.

FINDINGS OF FACT

1. The petitioner receives Social Security benefits and works part-time. She is single and rents the downstairs part of her duplex apartment to a tenant for \$125 a month. She applied for fuel assistance on July 16, 2001.

2. The Department has denied her application based on excess income for a household of one person. Adjustments to the petitioner's gross income the Department allowed were an elderly/disabled deduction of \$150 and 20 percent of her earned income.

3. In addition to the \$125 rent she receives from her tenant, the Department determined the petitioner's Social Security income to be \$800 a month, which the petitioner does

not dispute. The Department also determined that her earned income is \$752 month, but the petitioner maintains that it is only \$700, which she claims is the maximum allowed under Social Security rules. Using the petitioner's figures, her net income for fuel assistance is \$1,335 (\$125 rental income, plus earned income of \$700 less 20% or \$140 for a net of \$560, plus Social security of \$800, minus \$150 elderly/disabled deduction), see infra.

4. The petitioner maintains that if the Department can count the rent her tenant pays her, it should include him as a member of her fuel assistance household. The tenant also receives disability payments but the petitioner maintains that these payments shouldn't be counted as household income because it is paid to a representative payee and neither she nor her tenant ever sees it, except the \$125 rent payment.

ORDER

The Department's decision is affirmed.

REASONS

The maximum gross income under the fuel program for a single-person household is \$895 per month, and for a two-person household it is \$1,210. See Procedures Manual § P-2905

B. Households are allowed a deduction from gross income of \$150 for each household member who is elderly or disabled.

WAM § 2904.3. An employment expense of 20 percent of earned income is also deducted. Even with these deductions, the petitioner's net income (\$1,360) is well in excess of the program maximum for a household of one person (\$895).

Moreover, even if the petitioner and her tenant could be considered a household of two persons,<sup>1</sup> even without counting the tenant's income,<sup>2</sup> the petitioner's net income (\$1,360) is also in excess of the two-person household maximum (\$1,210).<sup>3</sup> Therefore inasmuch as the Department's decision was in accord with the pertinent regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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<sup>1</sup> The department maintains, and the regulations seem to indicate, that the tenant does not qualify for "boarder" status in a two-person household because the "rent" he pays is well below what is considered "reasonable" in the petitioner's housing market. See WAM §§ 2901.1(5-6). However, given the amount of the petitioner's income, the Board need not consider this issue.

<sup>2</sup> If the tenant could be considered a boarder, under the regulations all his income would have to be included, despite the fact that it is paid to a representative payee. See WAM § 2904.2.

<sup>3</sup> Finally, to exhaust every argument potentially available to the petitioner, even if the tenant, despite not having his income counted, were to qualify for the \$150 elderly/disabled deduction, the net household income would still be at the program maximum of \$1,210.