

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,435
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Office of Home Heating Fuel Assistance of the Department of PATH finding that he is ineligible for fuel assistance. The issue is whether the Department acted correctly in offsetting the amount of the petitioner's annual heating cost by a Section 8 utility allowance. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner lives alone in a one-bedroom apartment that he heats primarily with natural gas. His rent is subsidized through the "Section 8" program. With the subsidy, he pays \$133 a month toward the rent of \$575. He is required to pay his own utilities.

2. The petitioner made a timely application for heating fuel assistance with the Department of PATH and was informed by a notice from the Department that he would not be eligible because his estimated heating cost is less than the allowed minimum heating cost.

3. Relying on tables in its regulations, the Department determined that the petitioner would have an annual heating cost of \$412 during the heating season. The Department further determined based on tables that the petitioner has been allotted \$312 per year by the "Section 8" program to pay for his heating costs.¹ This "subsidy" leaves the petitioner with \$100 in annual uncovered heating costs as determined by the Department's tables. Because his unmet heating costs (\$100) are less than the \$149 minimum (see infra), the petitioner was determined to be ineligible.

ORDER

The decision of the Office of Home Heating Assistance of PATH is affirmed.

REASONS

The regulations governing the fuel program require that a household must have an obligation to pay a minimum amount of heating expense in relation to its income in order to receive

¹ This \$312 figure represents the amount by which the petitioner's annual rent obligation to his landlord is reduced by Section 8 because utilities are not included in the petitioner's rent. If the landlord had provided utilities, the petitioner would have been required to pay \$26 more per month as his portion of the rent. The housing authority pays the landlord the difference between the market value of the apartment and the petitioner's share.

benefits. 2906.2(c). The Department determined that the petitioner would be eligible under the Fuel Assistance regulations if he is liable for the program minimum of \$149 per year in heating costs. W.A.M. 2906.3.

The Department calculates a household's liability for fuel expenses not through use of actual usage figures, but by means of a "Proxy Table" reflecting standing heating costs by the type (single or multi-family), size (by number of bedrooms) and type of heating fuel. W.A.M. 2906.2(a). For the petitioner, who lives in a one-bedroom apartment that is heated primarily by natural gas, the annual heating figure is \$412. W.A.M. 2906.4. The regulations provide further that persons who live in subsidized housing have further reductions calculated as follows:

Each household living in subsidized housing will have its annual primary heating fuel costs reduced by an annualized standard heating subsidy deduction prior to determining the percentage of heating costs to be met by the Fuel Program. This standard is derived from Housing and Urban Development (HUD) heating subsidy amounts, called allowance by HUD, which are developed by the Vermont State Housing Authority and are specified by housing type, fuel type, and number of bedrooms. These subsidy amounts are located in the Standard Heating Subsidy Tables in the Fuel Program section of the welfare procedures manual.

W.A.M. 2906.1

For the petitioner the standard heating subsidy figure is \$26 per month, or \$312 annually (one bedroom, multi-family dwelling with natural gas). P-2905 C. The regulations require that this figure must be used to reduce the annual heating cost to obtain a "net annual fuel cost." W.A.M. 2906.2(b). Thus, the petitioner's "net annual fuel cost" (\$412-\$312) is \$100.

As stated above, based on his income the petitioner must have a minimum net fuel cost of at least \$149 in order to be eligible for the payment of any benefits. W.A.M. 2906.2(c). Thus the Department is correct in its determination that the petitioner cannot receive heating assistance under the regular fuel program for this winter. The Board is bound to affirm the Department's decision. 3 V.S.A. § 1391(d), Fair Hearing Rule 17.²

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²At the hearing in this matter, held on December 5, 2001, the petitioner was informed of the "crisis" fuel program that he can apply for through his local community action program if an emergency need for fuel arises this winter.