

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,602
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Office of Home Heating Fuel Assistance of the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that she 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.

FINDINGS OF FACT

1. The petitioner has gross income from Social Security of \$604 a month. She lives alone in a one-bedroom apartment that she heats primarily with natural gas. Her rent is subsidized through the "Section 8" program which requires her to pay \$73 per month to the landlord. The petitioner is required to pay her own utilities.

2. The petitioner made a timely application for heating fuel assistance with the Department of PATH and was informed by a notice dated February 12, 2002 that she would not be

eligible because her estimated heating cost is less than the allowed minimum heating cost to be eligible for assistance.

3. The Department determined that the petitioner's income made her income eligible for the program. (The maximum allowable income is \$895 a month.) However, 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 had been allotted \$312 per year by the "Section 8" program to pay for her heating costs.¹ This "subsidy" was subtracted from the petitioner's annual heating costs and she was found to have only \$100 in uncovered heating costs. Because this amount was less than the \$125 minimum that is allowed under the regulations (see infra), the petitioner was determined to be ineligible.

4. The petitioner appealed this determination because her actual heating costs are far greater than those allowed in the tables.

¹ This \$312 figure represents the amount by which the petitioner's annual rent obligation to her landlord was 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 her portion of the rent. The housing authority pays the landlord the difference between the market value of the apartment and the petitioner's share.

ORDER

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

REASONS

The regulations governing the fuel program provide that a single person with a net income less than \$895 is financially eligible for benefits. P-2905 A. As noted above the petitioner is financially eligible based on her gross income of \$678.

Financial eligibility, however, is not the only test for receiving benefits. The regulations also require that a household have an obligation to pay a minimum amount of heating expense in relation to its income in order to receive benefits. 2906.2(c). Based on her income, the petitioner is eligible under the Department's regulations if she is liable for at least \$125 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 propane 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 \$312 per month (one bedroom, multi-family dwelling with propane 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). The petitioner's "net annual fuel cost" (\$412-\$312) is \$100. Unfortunately, the regulations make no provision for energy inefficient homes or individuals who require a warmer environment.

As stated above, the petitioner must have a minimum net fuel cost figure of at least \$125 under the tables in order to

be eligible for the payment of any benefits. W.A.M.
2906.2(c). As the petitioner's cost under the tables is only
\$100, 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 thus bound to
affirm the Department's decision. 3 V.S.A. § 1391(d), Fair
Hearing Rule 17.

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