

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,672  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her Food Stamps because she and her daughter live in the same home as the petitioner's parents. The issue is whether the petitioner and her child can be considered a separate household under the pertinent regulations. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner resides with her parents and her seventeen-month-old daughter. The petitioner is twenty years old, born on July 25, 1981. Sometime over a year ago the petitioner began receiving food stamps for herself and her child, even though she was living with her parents.
2. In March 2002 the Department notified the petitioner that her Food Stamps would terminate effective April 1, 2002 because the petitioner's parents would have to be included in the petitioner's and her child's Food Stamp household, and that because the parents' income was now deemed available to

the petitioner, the new household (which included the parents) was over income.

3. At the hearing in this matter, held on April 12, 2002, the Department admitted that prior to April 1, 2002 the petitioner and her child had been receiving Food Stamps as a separate household due to the Department's error.

4. The petitioner does not dispute that her parents' income is too high to qualify for Food Stamps.

ORDER

The Department's decision is affirmed.

REASONS

Food Stamp Manual § 273.1, was amended (along with many other sections of the regulations pursuant to extensive changes in the federal Food Stamp statute) effective January 1, 1997. Prior to that time children under twenty-two years of age who lived with their parents and their own children, and who with their children purchased and prepared food separately from their parents, could obtain separate household status for themselves and their children.

The new regulation removes the provisions regarding children under twenty-two being allowed separate household status from their parents under any circumstances. It now contains only the provision that all "parent(s) living with their natural, adopted or step-children twenty-one years of

age or younger" must "be considered as customarily purchasing food and preparing meals together, even if they do not do so". Id. § 273.1(a)(2).

The regulations further provide that the income and resources of all household members shall be considered in determining that household's eligibility for Food Stamps. Id. §§ 273.8(a) and 273.9(b). As noted above, the petitioner does not dispute that any household that includes her parents has income and resources in excess of the program maximum.

Inasmuch as the Department's decision in this matter is in accord with the regulations as amended the board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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