

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearings No. 17,943
) & 17,946
Appeal of)

INTRODUCTION

The petitioners appeal a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) to assign one-half of their entire shelter expense to each of them when determining their eligibility for Food Stamp benefits. The petitioners consolidated their appeals for hearing.

FINDINGS OF FACT

1. The petitioners are unrelated persons who live in the same household. Petitioner D. has income from Social Security disability and SSI benefits amounting to \$624 per month. Petitioner T. has Social Security survivors' benefits of \$689 per month.

2. The petitioners share the cost of their shelter by each paying half of the \$359 per month rent. Their rent includes their heat, hot water, water and rubbish.¹ They also

¹ This is a subsidized rent amount, the balance is paid to the landlord by a local housing authority.

each pay half of their remaining utilities, including telephone and electricity.

3. Each of the petitioners is treated as one household for Food Stamp purposes. In other words, PATH does not treat them as a single unit to figure their Food Stamp benefits but rather as two distinct units. PATH uses the actual rent amount, \$359, but not the actual utility amount to calculate each householder's shelter cost. The utility amount is taken from a standardized table of utilities which is \$363 per month. The petitioners agree that their actual costs for utilities is much less than this figure. The entire combined shelter amount for the petitioners is \$722 per month. Because they are treated as distinct households, the entire shelter cost is divided between the two of them and each gets \$361 as a shelter expense.

4. In calculating each of the petitioner's eligibility for Food Stamps, PATH gave each a \$134 standard deduction from income. The net of each petitioner's income was analyzed to see to what extent either had to pay more than 50% of their net income for shelter expenses. Petitioner T. had a net income of \$555 of which 50 percent is \$277.50. Her shelter cost of \$361 per month resulted in a deductible shelter allowance of \$83.50 for her. Petitioner D. had a net income

of \$490 of which 50 percent is \$245. His shelter cost of \$361 per month resulted in a deductible shelter allowance of \$115.98 for him.

5. After the above deductions, Petitioner T.'s Food Stamp income was determined to be \$471.50 for a Food Stamp benefit of \$10.00 per month. Petitioner D.'s Food Stamp income was determined to be \$374.06 for a Food Stamp benefit of \$22 per month. The petitioners were notified of this calculation in May of 2001.

6. After this notice was sent, the petitioners spoke to someone in the fuel assistance office who told them that they had to be considered one household for fuel assistance purposes and that they should be considered as individuals with a full standard utility allowance each in the Food Stamps program. The petitioners thereafter contacted the District Office to request a copy of their Food Stamp budget breakdown and the Food Stamp rules. After several calls went unanswered and the requested items were not supplied, the petitioners filed these fair hearing requests.

ORDER

The decision of the Department is affirmed.

REASONS

The Food Stamp program allows unrelated persons who are living in the same home to apply separately for benefits if they customarily purchase food and prepare meals separately. F.S.M. 273.1. Each person in the home is then considered his own "household" for eligibility calculation purposes. In a household which has unearned income from social security or SSI benefits, a \$134 standard deduction is allowed as well as an excess shelter costs deduction. F.S.M. § 273.9d(1) and (5)². The excess shelter cost deduction is defined as the "monthly shelter costs in excess of 50 percent of the household's income after all other deductions . . . of this section have been allowed." F.S.M. § 273.9d(5)(i).

In the petitioners' cases, shelter costs includes their rent and their utilities--cooking and heating fuel, electricity, water, sewer, garbage and trash collection and the basic service fee for the telephone. F.S.M. § 273.9d(5)(i)(A) and (D). Vermont has adopted a standard utility allowance amount to cover all utilities which are not included in the rent. F.S.M. 273.9d(6). That amount is \$366.

² There are also deductions for excess medical expenses (those not paid by Medicaid) and dependent care expenses. F.S.M. § 273.9(d)(3) and (4). These deductions do not appear to be relevant in this case.

P-2590A. The petitioners agreed that their utilities not covered by the rent are far less than this amount. Using the standard amount is to their advantage.

The above regulation does not specifically state that the rent and utility allowance must be divided if the one person household is only responsible for half of these shelter expenses. It does say, however, that the pertinent consideration is "the monthly shelter costs" of the recipient. The shelter cost paid by each of these recipients is not the entire shelter amount but rather half of the total shelter cost of the unit in which they live. Therefore, PATH was correct to consider only those costs for which each of the individuals in these two Food Stamp households is responsible.³

The petitioners are correct that they must be considered as one household with one fuel expense in the home heating fuel assistance program because they purchase their heating fuel together as an economic unit. See W.A.M. 2901.1(4). However, this program has different considerations and rules

³ If the petitioners were considered to be one household for Food Stamp purposes they would only receive one standard deduction of \$134 and the same combined shelter cost. This would result in a net income after all deductions of \$1,046. A household of two with that net income would receive only \$10.00 per month. See Procedures Manual 2590 D11. By applying as two households Petitioner T. alone gets \$10.00 per month and

from those in the Food Stamp program. Advice they may have gotten from personnel in the fuel program about calculations in the Food Stamp program were erroneous. It is regrettable that PATH did not respond in a timely manner to the petitioners' requests for documentation and clarification of the calculation methods thereby forcing them to request a fair hearing to resolve this issue. Nevertheless, as PATH's calculations in this matter are consistent with its Food Stamp regulations, the Board is bound to affirm the decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

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Petitioner D. gets \$22.00 per month. As a household, then, they are \$22 better off under the methodology now used.