

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,194  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that he has been overpaid Food Stamps. The issue is whether the overpayment must be assessed even if it resulted from the Department's error.

FINDINGS OF FACT

1. At all times relevant to this matter the petitioner has been a recipient of Food Stamps. In fall 2002 the Department discovered that since December 1, 2001 it had incorrectly determined the petitioner's Social Security income.

2. The petitioner received \$135 in Food Stamps for the months December 2001 through September 2002, and \$139 in Food Stamps from October through November 2002.

3. As of the day of the hearing in this matter, February 5, 2003, the Department had considered and correctly applied all the shelter and medical expenses that the petitioner had reported incurring during those months.

4. The petitioner's income during the period in question was \$590.04 a month.

5. Based on the petitioner's actual income and reported expenses during the period the Department has now correctly determined that the petitioner should have received \$82 in Food Stamps for the months December 2001 through August 2002, and \$93 from September through November 2002. Subtracting these amounts from the amounts the petitioner erroneously received (see paragraph 2, supra) the Department correctly determined that the petitioner's total overpayment for the period is \$611.

6. The Department does not allege that the petitioner did anything wrong, but maintains that regardless of who was at fault it must assess an overpayment of \$611.

ORDER

The decision of the Department is affirmed.

REASONS

Under the federal Food Stamp regulations as adopted by the State of Vermont, the Department of PATH is required to establish a claim against any household which has received Food Stamp benefits to which it was not entitled regardless of whether the agency or the household caused the overpayment.

F.S.M. 273.18(a). The Department is required to recalculate Food Stamps based on the correct information regarding the household's actual income and expenses and to establish a claim for any amounts that were overpaid during the previous twelve months. F.S.M. § 273.18(c).

The regulations further require the Department to recoup such overpayments when the household continues to participate in the program. In such cases, the Department is required to collect outstanding amounts by reducing the household's monthly food stamp allotments. F.S.M. 273.18(f). The amount to be collected by this offset is the greater of \$10.00 or ten percent of the total monthly food stamp allotment—again, whether the overpayment was the result of an error by either the household or the agency. F.S.M. §§ 273.18(f)(1)(iii).

There is no indication in this matter that the Department has not followed its regulations regarding the calculation and treatment of the petitioner's overpayment, even though recoupment of that overpayment will undoubtedly be a hardship on the petitioner in the coming months. Therefore, the Board

is bound to affirm the Department's decision. 3 V.S.A. §  
3091(d), Fair Hearing Rule No. 17.

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