

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,247  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying his application for Food Stamps and Reach Up Financial Assistance (RUFA) based on excess resources.

FINDINGS OF FACT

1. The petitioner is a seasonally employed man who lives with his two children ages thirteen and fourteen. He currently has no income and receives no child support from the children's mother.

2. In December of 2002, the petitioner applied for Food Stamps and Reach Up Financial Assistance. He was notified in writing on January 7, 2003 that he was denied for both programs based on resources in excess of program maximums. For RUFA which has a \$1,000 maximum, he was determined to have \$29,375 in excess resources. For Food Stamps which has a \$2,000 maximum, he was determined to have \$26,075 in excess resources.

3. The resources at issue are: 25 acres of land worth \$23,000 with no liens; a 2002 Pop-up camper worth \$2,500 which the petitioner owns outright; a Lincoln Mark 8 automobile worth \$4,875 which the petitioner owns outright; a '96 GMC Blazer worth \$5,025 on which the petitioner still owes \$800; a '94 GMS pick-up truck worth \$6,750 on which the petitioner still owes \$6,000; and a '79 boat worth \$100.<sup>1</sup>

4. For purposes of the RUFA resource calculation, PATH excluded the Lincoln Mark 8 as the family's main vehicle and counted the equity value in the rest of the vehicles, including the camper and the boat. The total equity value of those vehicles is \$7,375. When added to the value of the land, PATH determined that the total resources countable for RUFA is \$30,375. The resource maximum in that program is \$1,000 so PATH found the petitioner ineligible.

5. For purposes of the Food Stamp resource calculation, PATH excluded the Mark 8 as the family's main vehicle and deducted \$4,650 from the value of each of the other cars for a total car value of \$2,475. This amount was added to the values of the camper, the boat and the land for a total of \$28,075. The resource maximum in that program is \$2,000

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<sup>1</sup> A dump truck used in the petitioner's business worth \$40,500 was excluded. The land the petitioner lives on and the trailer he lives in

so PATH found that the petitioner is not eligible for that program either.

6. The petitioner was told that the piece of land he owns could be excluded for a period of time under the RUFA program if he put it up for sale. However, he will not do that because he says he will be subject to a tax penalty if he sells the land.

7. The petitioner believes that his '94 pick-up truck should be excluded because he says he uses it primarily in his business. He explained that his dump truck is used to perform his excavation operations but that he uses the pick-up truck to pick up supplies and meet customers. This assertion is found to be credible.

#### ORDER

The decision of PATH denying both RUFA and Food Stamp benefits is affirmed but the amount of the resources attributed to the petitioner is modified consistent with the rationale below.

#### REASONS

The RUFA program has a resource maximum of \$1,000 per household which includes both liquid and non-liquid assets.

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were also excluded from the resources.

W.A.M. 2261. Resources are defined in the regulations as "any assets, other than income, which an applicant ANFC group has available to meet need." W.A.M. 2260. The total equity value of all assets, except those specifically excluded by the regulation, is counted as a resource. W.A.M. 2260. The regulations exclude real property owned and used as a home as well as the equity value in real property not occupied as a home for a certain period of time when a "good faith effort is being made to sell." W.A.M. 2264, 2263.6. PATH correctly included the \$23,000 value of the petitioner's land which is not occupied as his home under this regulation since he has not placed it up for sale.

Vehicles are subject to a special exclusion and are defined to include not only passenger cars but jeeps, trucks, campers, vans, snowmobiles and boats, as well. W.A.M. 2263.5. Under this regulation:

. . .

The equity value of one operable motor vehicle per assistance group with one adult . . . is excluded as a resource. In situations where the assistance group owns additional vehicles, the applicant or participant shall identify each vehicle to be excluded. The equity value of all remaining vehicles owned by members of the assistance group, unless otherwise excluded, must be counted towards the resource limitation. Equity value equals fair market value minus debt owed.

. . .

W.A.M. 2263.5

The vehicle excluded under the above provision was the one with the most equity--the \$4,875 Lincoln Mark 8. This exclusion was the most favorable to the petitioner. PATH erred in not excluding the petitioner's pick-up truck which, like his dump truck, is used to produce income. W.A.M. 2263.6. When the equity in the remaining vehicles is added up, the amount should actually have been \$6,625, not \$7,375.

When the correct figure from the vehicles of \$6,625 is added to the figure from the land of \$23,000, the correct total resource amount is \$29,625. That figure is still greatly in excess of the \$1,000 maximum for resources in the RUFA program. It cannot be said, therefore, that PATH's conclusion that the petitioner has excess resources for the RUFA program is incorrect.

The Food Stamp program also has a maximum resource limit for both liquid and nonliquid assets which is \$2,000.<sup>2</sup> F.S.M. 273.8(b). Resources countable include licensed and unlicensed vehicles, land and recreational properties. F.S.M. 273.8(c)(2)0. Like the RUFA program, the Food Stamp program also excludes the home and surrounding property. F.S.M.

273.8(e)(1). Unlike the RUFA program, there is no provision for excluding other real property which is for sale. The equity value of all property except for licensed vehicles is used as a resource. F.S.M. 273.8(c)(2). Under the Food Stamp regulations, only "licensed automobiles, trucks, and vans" receive different treatment from other personal and real property. F.S.M. 273.8g. PATH correctly counted the full equity value of the land, camper and boat under these regulations.

The Food Stamp licensed vehicle regulation also allows the exclusion of "one operable vehicle per household with one adult", F.S.M. 273.8(h)(1), and any licensed vehicle which is used "primarily" (over fifty percent of the time) for income-producing purposes. F.S.M. 273.8(h)(2)(i). With regard to other licensed vehicles, the regulations provide:

4. Each nonexcluded licensed vehicle shall be evaluated separately to determine if its fair market value exceeds \$4,650. The amount by which a vehicle's fair market value exceeds \$4,650 shall be counted as a resource, regardless of any encumbrances on the vehicle. The fair market value of two or more vehicles shall not be added together to reach a total fair market value in excess of \$4,650.

5. Licensed vehicles that are not equity exempt, shall have their equity value counted as a resource.

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<sup>2</sup> The resource limit is \$3,000 for households with persons over 60. The petitioner does not fall into this category.

6. In the event a licensed vehicles is assigned both a fair market value in excess of \$4,650 and an equity value, only the greater of the two amounts shall be counted as a resource.

F.S.M. 273.8h

Under these regulations, PATH exempted one vehicle completely, the Mark 8. This again was to the petitioner's advantage since this car had the highest countable value of them all. The other two vehicles were evaluated to see to what extent the fair market values of each of these exceed \$4,650 and what their equity values are. The fair market value of the '96 GMC Blazer was \$375 greater than the fair market ceiling. However, the equity value of that vehicle is \$4,225. As the equity value is the greater of the two figures, it must be used as the resource amount. PATH appears to have erred (in the petitioner's favor) by using the \$375 figure as the resource amount. The fair market value of the '94 pick-up exceeds the \$4,650 figure by \$2,100. Its equity value is only \$750. Therefore, PATH was correct to use the larger fair market value figure of \$2,100 to value that car. However, the facts show that the value of that pick-up truck should have been completely excluded because it is used more than fifty percent of the time to produce income. In that

case, the total resource amount from licensed vehicles is only the equity value in the Blazer which is \$4,225.

When that vehicle amount is added to the value of the boat, the camper and the land, the total countable resources to the petitioner is \$29,825, far in excess of the resource amount. PATH was, therefore, correct to deny the petitioner Food Stamps although the amount of resources allocated to him should be corrected.

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