

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,399
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Office of Home Heating Fuel Assistance (Fuel) denying her application for failure to provide information on the income of all members of the household.

FINDINGS OF FACT

1. The petitioner is an eighty-six-year-old woman who lives with her daughter in a home owned by her granddaughter. The petitioner pays \$500 per month rent to her granddaughter for exclusive use of one or more rooms on the first floor of the house. The petitioner's daughter lives on the second floor and takes care of the petitioner. The daughter has no income and pays no rent to the granddaughter (her daughter). The granddaughter lives in a basement unit that has its own entrance, bathroom and heating source. However, her unit has no kitchen and she regularly uses the upstairs kitchen. The petitioner pays one-third of the utilities, including the propane fuel, in the house. Her granddaughter pays the other

two-thirds of the utilities. The propane fuel for the entire house is in the granddaughter's name.

2. The petitioner filed an application for fuel assistance on January 22, 2003 in which she reported that she was the only person living in her home. PATH discovered the living situation in the house and asked for verification of the incomes of both the daughter and granddaughter by a letter dated February 25, 2003. When the information was not provided, PATH sent a second letter March 12, 2003 giving the petitioner ten days to provide the information or face denial of her application. The petitioner did not submit proof in response to this request and her application was denied by written notice at the end of March.

3. The petitioner's daughter says she has no income or resources but both she and the petitioner's granddaughter refuse to provide information on their financial situation because they do not believe it is relevant to a determination of the petitioner's eligibility.

RECOMMENDATION

The decision of the Office of Home Heating Fuel Assistance is reversed and remanded for a determination of the petitioner's eligibility as a roomer household.

REASONS

The office of home heating fuel has adopted a number of regulations defining and describing who is a member of a fuel household. Under these regulations, the petitioner's granddaughter is the "head of household" of the entire living unit because she is financially responsible as the owner of the house for the cost of the entire living unit, including the fuel. W.A.M. 2901. Although she purports to rent the entire upstairs portion of the house to her mother and grandmother, in reality, she also uses part of the upstairs premises and subsidizes her mother's rent and two-thirds of the utilities, including the fuel for the entire premises. Given these facts, it cannot be found that the granddaughter is merely the occupant of a separate unit in a home owned by her.

Under the fuel office's regulations a presumption exists that certain relatives of the head of household are in the same fuel household:

Specified Relatives of the Head of Household (Other than Mandatory Members of the Fuel Household)

These relatives of the head of household are included in the fuel household based on the presumption that they are members of the same economic unit: mother, father, adult daughter, adult son, sister, brother, grandmother, grandfather, granddaughter, and grandson. The relatives specified herein include blood-based relationships and relationships created by adoption or marriage (for example, a father-in-law or an adult stepdaughter) or civil union.

To rebut the presumption that a specified relative is a member of the same economic unit as the head of household, the head of household must provide reasonable evidence that:

- (1) the relative is a roomer (or roomer/boarder) who rents separate living quarters in the living unit and pays reasonable room rent (compensation) to the head of household or his or her spouse or civil union partner for the separate living quarters;

W.A.M. 2901.2(3)(b)

"Reasonable room rent" is defined in the regulations as an amount that "equals or exceeds: . . .the amount designated in WAM 2613.1 for weekly room rent payments to a non-relative." W.A.M. 2901.1(6)(b). That amount is \$46 per week or \$198 monthly. The petitioner pays monthly rent that is well in excess of that amount. As she does have separate living quarters in the house, she can be classified as a "roomer" rather than as part of her granddaughter's household. As a roomer she is the head of her own household within the

larger household and as such need only include in her fuel household other persons who reside with her in her sub-unit.

W.A.M. 2901.1

The facts in this case show that no one else resides with her in her sub-unit as her daughter has her own living quarters on the second floor and her granddaughter has hers in the basement. Therefore, the petitioner does not have to report their income as they are not members of her fuel household. W.A.M. 2904, 2905. The office of fuel assistance was in error in requiring the petitioner to provide this information and was in error for denying her based on her failure to provide this information. As a "roomer household", the petitioner should have been considered with regard to her eligibility solely based on her own situation. The matter must be remanded to determine if she is otherwise eligible for fuel assistance. The petitioner should be aware that the annual benefit for an eligible roomer is only \$50.00. W.A.M. 2906(d).¹

#

¹ The petitioner could opt to be considered a member of her daughter's household if she wishes. In that case, she would be considered for the regular annual fuel payment but would have to provide her daughter's and granddaughter's income information.