

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,404
)
Appeal of)

INTRODUCTION

The petitioner appeals two decisions by the Office of Home Fuel Heating Assistance (Fuel) denying his application for seasonal fuel benefits, the first based on excess income in the household and the second based on his failure to provide financial information on a member of his household.

FINDINGS OF FACT

1. The petitioner, who is a tax accountant, was unable to work due to a heart attack from July through December of 2002. He filed an application for fuel assistance on August 30, 2002 and was denied September 13, 2002 due to excess income. The notice sent to him referred to an enclosed card explaining his appeal rights and how to obtain a fair hearing. The notice did not tell the petitioner that he had to appeal within ninety days to get a hearing. The petitioner did not agree with that decision because it used his 2001 tax return which did not reflect his current income. He believes he called someone at the fuel office to complain.

2. At about the time his fuel request was denied, the petitioner's mother moved into his house to care for him. She gave up her apartment in order to do this. The petitioner saw in the paper a few months later that additional money was available under the fuel assistance program and reapplied on January 31, 2003, when he ran out of wood. He did not report his mother as a member of his household on his application.

3. During the processing of his application, the fuel office discovered that the petitioner's mother was living with him and asked for information on her income. On February 12, 2003, PATH sent the petitioner a request for verification of his mother's income. He was advised that his failure to provide that information by February 26 could result in a denial of his application. The petitioner's mother would not release that information to PATH. However, the petitioner believed that as his mother had filed an income tax return for the prior year, PATH would have access to it as a governmental agency. No one at PATH told the petitioner that it had access to this information, the petitioner just assumed it. The petitioner never supplied the requested information to PATH.

4. On March 3, 2003, PATH mailed the petitioner a letter denying his application for his failure to provide

information required to determine his eligibility. On March 27, 2003 the petitioner appealed that decision.

5. The petitioner has been able-bodied since December when he began to work again. During that month he had \$4,000 in receipts. His mother is still living with him but is looking for a place to live on her own. He says at this point, his mother is willing to reveal her income if it is needed to calculate his eligibility.

ORDER

The decision of the fuel office is affirmed with regard to the second denial in March of 2003 but remanded for a hearing on the first denial in September of 2002 due to its failure to notify the petitioner of time limits for an appeal.

REASONS

Under regulations adopted in the fuel assistance program, income of all persons living in the household must be verified. W.A.M. 2905. The fuel office notified the petitioner of this requirement and its need for verification of his mother's income. The petitioner's mother would not provide that income information to the fuel office. The petitioner decided, without consulting with the fuel office, that he did not need to verify his mother's income because she

had filed a federal tax return. He let the deadline for response go by without contacting the fuel office. The result was the fuel office did not have information it needed to determine the petitioner's eligibility. Under the regulations, failure to provide required information "shall result in a denial of benefits to the entire fuel household." W.A.M. 2905(f). Under these circumstances, the fuel office was correct in denying the petitioner's eligibility and the Board must uphold the decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

At the hearing, the petitioner brought up the issue of his first denial for benefits on September 12, 2002. The office of fuel assistance opposed hearing that matter because no appeal was filed within ninety days of the decision. However, the notice which the fuel office sent to the petitioner did not inform him that he had ninety days to file an appeal. In fairness to the petitioner, therefore, the matter should be remanded for a hearing on whether the initial decision made last September was correct.

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