

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,478  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) decreasing her Food Stamp benefits based on a decrease in her shelter costs.

FINDINGS OF FACT

1. The petitioner is a disabled person who lives in subsidized housing and receives Food Stamp benefits. Her sole source of income is Supplemental Security Income benefits of \$604.04 per month. However, she is currently receiving only about \$544 per month because the Social Security Administration recoups about \$60 each month to recover a \$1,000 overpayment that occurred when she failed to report income from employment.

2. The petitioner recently moved from one subsidized housing situation to another. In her prior housing situation her rent was \$87 per month but did not include any utilities. In figuring her former shelter costs, PATH added the \$87 in rent to a standardized amount of \$366 per month for persons

who have to pay all of their utilities. The total shelter cost of \$453 entitled the petitioner to a shelter deduction of \$217.98 representing the amount by which her shelter cost exceeded 50 percent of her adjusted income of \$470.04 (\$604.04 - \$134 standard deduction).

3. In her new housing, the rent is \$149 which includes her heat and hot water. Since the petitioner only pays for some of her utilities (electric, phone and cable) outside of her rent, PATH refigured her eligibility by adding a standardized amount of \$146 per month for persons whose utilities are partially included in the rent. When the rent (\$149) and the new utility standard (\$146) were added together, PATH obtained a new shelter cost of \$295 per month for the petitioner. PATH determined that the portion of that amount which exceeds 50 percent of the petitioner's adjusted income of \$470.04 is \$59.98 per month. The petitioner's new food stamp income was determined to be \$410.06 obtained by deducting the \$59.98 excess shelter cost from the \$470.04 adjusted income. PATH determined that an individual with that income is eligible for \$15.00 in food stamp benefits.

3. On May 22, 2003, PATH sent the petitioner a letter notifying her that her Food Stamps would decrease from \$63.00 per month to \$15.00 per month based on the fact that her

"allowed" (excess) shelter and utility costs went down from \$217.98 to \$59.98 per month. She was notified that the decrease would occur on June 1, 2003.

4. The petitioner appealed this decision because she does not feel her situation is any different financially just because her heat and hot water are included in her rent. She stated that her electricity, phone and cable are over \$300 per month and that she also has medical co-pays of \$20 to \$30 per month. In addition, she believes that PATH should only count the income she actually receives in her SSI check after the recoupment takes place, not the amount she should be receiving.

ORDER

The decision of PATH is affirmed.

REASONS

PATH's Food Stamp regulation in its definition of income provides generally that income "shall not include monies withheld from an assistance payment . . . to repay a prior overpayment . . ." F.S.M. 273.9(b)(5)(i). However that same regulation provides that "monies withheld from assistance from another program . . . for purposes of recouping from a household an overpayment which resulted from the household's

failure to comply with the other program's requirements shall be included as income." Id. Under this regulation, the entire amount of the money payable under the Social Security program to the petitioner is countable, including amounts recouped, because the recoupment is the result of the petitioner's failure to comply with income reporting requirements in the Social Security program. PATH was thus correct under its regulation to count the entire amount payable to the petitioner under the Social Security program in calculating her eligibility for Food Stamps.

PATH has also adopted a series of deductions applied to calculate net income used to determine the amount of Food Stamp benefits. F.S.M. 273.9(d). Every household of four or fewer members receives a standard deduction of \$134. F.S.M. 273.9(d)(1), P-2590 (A). A deduction is also available for "monthly shelter costs in excess of 50 percent of the household's income after all other deductions" have been allowed. F.S.M. 273.9(d)(5)(i). Shelter costs are calculated by using the amount of rent plus a standardized utility amount which varies depending on whether the rent includes heat or not. F.S.M. 273.9(d)(5)(i)(A) and (6). The standard utility allowance for a person whose rent includes the heat is \$146 per month. P-2590A(5).

In this case, PATH correctly determined that the petitioner has a total shelter cost of \$295 based on the addition of her \$149 heat-included rent to the \$146 utility allowance for persons who do not pay heat outside of the rent. PATH also correctly determined that the amount of this shelter cost which is in excess of 50 percent of the petitioner's income after all other deductions are applied is \$59.98 per month and correctly deducted that amount from the net income to obtain a final countable Food Stamp amount of \$410.06 per month. An individual with that amount of countable income is entitled under the regulations to \$15 per month. P-2590 D5. PATH's decision must be upheld because it is in accord with its regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

The petitioner has been made aware that to the extent that any of her monthly medical expenses are in excess of \$35 she can obtain a medical expense deduction and that she should report such expenses promptly. Since she has not reported amounts in excess of \$35 in the past, PATH was correct in not granting a further deduction for medical expenses based on her actual reported expenses. F.S.M. 273.9(d)(3).

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