

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,581  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his Food Stamps. The issues are whether the petitioner's failure to participate in the recertification process results in his loss of eligibility and whether he is entitled to continuing benefits until issues relating to other fair hearings are resolved.

FINDINGS OF FACT

1. In his letter of appeal in this matter dated July 25, 2003, the petitioner alleges, and the Department does not dispute, that in July 2003 the Department notified the petitioner that his Food Stamps would terminate as of July 31, 2003 due to his "failure to recertify".

2. The parties agree that the petitioner's receipt of Food Stamps did, in fact, end on July 31, 2003.

3. In his letter of appeal the petitioner admits that he refuses to complete forms pertaining to recertification

because certain items on the form "pertain to issues now under appeal" in other fair hearings.

4. The petitioner is indeed the subject of several other pending fair hearings, at least one of which concerns his continuing eligibility for RUFA in light of his son reaching the age of eighteen. (See Fair Hearing No. 18,467.) At a hearing held on August 21, 2003, the petitioner argued that until the issue of his continuing eligibility for RUFA is resolved he should not be required to participate in the Food Stamp recertification process and that his Food Stamps should continue in the same amount he received during the certification period that ended July 31, 2003.

ORDER

The Department's decision is affirmed.

REASONS

Food Stamp Manual (F.S.M.) § 273.14(a) provides as follows:

No household may participate beyond the expiration of the certification period assigned in accordance with 273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods.

Households must apply for recertification and comply with interview and verification requirements.

F.S.M. § 273.14(e)(2)(i) provides:

If a household does not submit a new application by the end of the certification period, the state agency must close the case without further action.

In this case the petitioner admits that he has not submitted an application for recertification beyond July 31, 2003. He argues, however, (at least as best the hearing officer can understand) that because he has timely appealed the termination of his Food Stamps as of that date, he is entitled to continuing Food Stamp benefits until all issues related to his prior eligibility for Food Stamps and his continuing eligibility for other benefit programs are resolved.

F.S.M. § 273.15(k)(1) includes the following:

If a household requests a fair hearing within the period provided by the notice of adverse action, . . . and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the notice of adverse action. . .

Emphasis added.

In this case, it is unclear whether the petitioner received a notice of adverse action regarding his eligibility for Food Stamps prior to July 31, 2003, and or whether he appealed any such notice. Even if this occurred, however,

F.S.M. § 273.15(k)(2)(i) provides that in cases in which benefits have been continued pending a fair hearing in accordance with § 273.15(k)(1), above, such benefits are to continue only until "the certification period expires". Nowhere in the regulations is a household excused from participating in the recertification process because of unresolved issues pending from a prior certification period.

In this case the petitioner is free to participate in the Food Stamp recertification process at any time and to receive a decision from the Department based on any new application that he files. The above regulations are clear, however, that unless and until he does so, he is not entitled to continuing benefits based on any prior certification period.

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