STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 18,722
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying him eligibility for seasonal fuel assistance.

FINDINGS OF FACT

1. The petitioner is a disabled man who lives alone in a two-bedroom home which is heated with oil. His sole source of income is Social Security benefits of $1,259.70 per month. His Medicare premium of $58.70 per month is deducted from this amount.

2. The petitioner applied for seasonal fuel assistance and was denied on October 9, 2003 due to excess income. PATH calculated the petitioner's eligibility by subjecting his $1,259.70 income to a $150 disability deduction. The balance $1,109 was considered the petitioner's countable monthly income for purposes of the fuel program. PATH determined that

the petitioner's income was $174 over the program maximum of $935 per month.

3. The petitioner believes PATH was wrong to use his gross income when he does not receive the gross due to the Medicare deduction. He also argues that the regulations should give deductions for house payments, taxes and electric costs which he says consume all of his income.

ORDER

The decision of PATH is affirmed.

REASONS

PATH's regulations define "income" as "the combined gross income of all members of the household ". W.A.M. 2904. "Unearned income" is specifically defined as "the gross amount available from . . . disability social security benefits including the part B Medicare premium." W.A.M. 2904.2(2). PATH was correct that its regulations require using the gross Social Security income even that part which is taken out to pay the Medicare premium.

PATH has a list of exclusions, deductions and adjustments which can be made to the gross income. W.A.M. 2904.3. PATH is correct that the only deduction which is applicable in this case is $150 from the household income for each individual

member who is . . . disabled." W.A.M. 2904.3(3). There are no deductions for household expenses. PATH is correct that the petitioner's countable income is $1,109.70 ($1,259.70 - $150) per month.

PATH's regulations limit eligibility for the fuel program to "a household with income computed per sections 2904 through 2904.3. which is at or below the amount for household size shown in the Fuel Income Maximum Table . . ." W.A.M. 2904.1. The maximum net monthly income for a one-person household under that table for the 2003-2004 fuel heating season is $935 per month. Procedures Manual P-2905. As the petitioner's income is in excess of that amount, PATH was correct to find the petitioner ineligible for benefits and the Board is bound to affirm that decision. 3 V.S.A. § 3091d and Fair Hearing Rule 17.

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