

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,288
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, (DCF) decreasing the amount of her Food Stamp benefits due to a decrease in her allowed shelter expenses. The issue is whether DCF should consider routine maintenance and upkeep as a shelter expense for a subsidized homeowner.

FINDINGS OF FACT

1. The petitioner is a disabled woman whose entire income consists of \$827 per month in Social Security income.
2. The petitioner lives in a single-family housing unit, which is subsidized through the Vermont State Housing Authority (VSHA). Before January of this year she was assisted through "Section 8" subsidized rental payments. Her rent was \$515 per month of which \$283 was paid by VSHA. To figure her Food Stamp eligibility, DCF added the \$232 which the petitioner was required to pay to her landlord to a standard utility allowance of \$384 for a total shelter cost

of \$616 per month. The amount by which that shelter cost exceeded fifty percent of her income after other deductions was \$471.18. That amount was used to reduce her countable income to a net of \$148.45 per month. That amount entitled the petitioner to \$96.00 in Food Stamps.

3. In January 2004, the petitioner bought the house she had been renting and began receiving assistance through the "Section 8 home ownership" program. Under that program, VSHA figured the petitioner's total shelter expenses as \$624 per month broken down as follows: \$232 mortgage and principal, \$132 taxes, \$33 insurance, \$92 for maintenance and repairs and \$135 for utilities. Based on that total shelter cost and the petitioner's income, VSHA determined that it would send the petitioner \$335 in subsidy payments for all her expenses each month. The petitioner was expected to pick up the remaining \$62 of the payments for principal, taxes and insurance and to bear the entire costs of her utilities, maintenance and repairs.

4. The petitioner was subjected to a six-month review of her eligibility in July of 2004. Following that review, DCF notified her that she would receive \$96.00 in Food Stamps beginning August 1 for the next six-month period. However, a few days later, her worker discovered that the rental

payments had been changed to mortgage payments and recalculated her eligibility. The shelter costs were calculated by adding together the \$62 which the petitioner had to pay toward her mortgage to a full \$384 fuel and utility allowance for a total shelter cost of \$446. After other deductions, DCF determined that the amount by which this new shelter cost exceeded the petitioner's net countable income was only \$106.18 per month. This amount (which was far less than \$471.18 per month she received as an excess shelter cost as a renter) was deducted from her income for a final countable income of \$513.45. This amount entitled the petitioner to \$10 per month in Food Stamp benefits.

5. The petitioner was notified on August 26, 2004 that her Food Stamps would be reduced from \$96 to \$10 per month as of October 1, 2004.

6. The petitioner appealed that decision saying that her shelter costs are as high as they were when she rented and that DCF is not taking into account all of the expenses which have been shifted to her, particularly upkeep and maintenance of the house. She presented evidence that she has incurred \$1,052.48 in electric, phone, gas and rubbish removal bills in the last ten months. In addition she presented evidence that she had \$1,438.33 in utility system

repairs and \$800.01 for repairing damage caused by a flood in the same ten-month period.¹

ORDER

The decision of DCF is reversed and remanded for recalculation of the petitioner's shelter costs to include flood-related damage repairs.

REASONS

The Food Stamp regulations adopted by DCF provide a deduction from income for shelter costs in excess of fifty percent of the household's income after all other deductions are taken. F.S.M. 273.9d(5)(i). The regulations go on to specifically define shelter costs as follows:

Shelter costs shall include only the following:

- A. Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
- B. Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

¹ The petitioner also submitted her excess medical bills. However, those were not the subject of the dispute at the hearing. The petitioner is encouraged to submit these bills to DCF if she feels they have not been counted. DCF does not dispute that the petitioner as a disabled person can have her excess medical bills deducted from her income.

Taxes, assessments, and insurance are averaged over the full period for which they are incurred. Households may request that they be averaged over the certification period in which the nondelinquent payment is due, or computed against the individual month in which the nondelinquent payment is due, providing such option does not result in any duplication of deductions. No deduction shall be allowed for delinquent payments that were initially due prior to the current certification period.

- C. The cost of heating and cooking fuel; cooling and electricity; water and sewerage; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.
- D. The shelter costs for the home if temporarily not occupied by the household because of employment or training away from the home, illness, or abandonment caused by a natural disaster or casualty in the household's shelter costs, the household must intend to return to the home: the current occupants of the home, if any, must not be claiming the shelter costs for Food Stamp purposes; and the home must not be leased or rented during the absence of the household.
- E. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

F.S.M. 273.9(D)(5)(i)

The Department has adopted "standard" utility amounts which it uses in lieu of actual figures for paragraph B. above. F.S.M. 273.9(d)(6). For the petitioner who must pay

all of her utilities herself, that figure was \$384 per month at the time of her application.² P-2590A(5). Since her actual utility charges are a little over \$100 per month, the use of that standard amount is not unfair to the petitioner.

Under the above regulation, the amounts which may be added to this \$384 utility figure are the cost of the mortgage, home insurance, tax and repairs for substantial damage to her home due to a natural disaster. Of course, only those costs which the petitioner must actually bear herself, not those paid by a third party, can be added to the costs. The \$335 which she receives every month from VSHA is specifically not added to her income by regulation because it must be paid out to cover her shelter costs. See F.S.M. 273.9(c)(1)(iii). The only amount which the petitioner actually contributes on a regular basis to cover the above allowable costs is \$62. DCF was correct to add the \$62 to the \$384 to determine her regular ongoing shelter costs. However, the petitioner presented evidence at hearing (but apparently not to her DCF worker) that she had repairs due to flood damage to her home. Those amounts should be factored in to her shelter costs for the months in which they were

² That figure went up on October 1, 2004 to \$407 per month.

incurred. Therefore, this matter must be remanded to DCF to make that calculation.

The petitioner wants an ongoing deduction at least equal to the \$92 figure arrived at by VSHA to cover routine maintenance and repairs. However, the regulation above does not make any provision for the addition of routine maintenance and repairs to shelter costs. The petitioner is no doubt correct that the higher rental amount she paid when she was a tenant in her home reflected the costs of maintenance and repair of the house. Under the above regulatory scheme she was allowed to deduct the whole rental amount from her income, less what VSHA paid, even if it did include maintenance and repairs. There is no doubt that renters and owners are treated somewhat differently in this regard under the above regulation. However, the petitioner has not made any argument that this difference is an illegal discrimination under the federal Food Stamp regulations.³ As DCF has acted in accord with its regulations, which are presumed to be valid unless otherwise shown, its decision not to include routine maintenance and repair amounts in her

³ The petitioner was given additional time to try to obtain legal assistance to make this argument but did not ultimately provide anything further on this issue.

shelter costs must be upheld by the Board. 3 V.S.A. §
3091(d), Fair Hearing Rule 17.

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