

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 19,295  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families (DCF) reducing her Food Stamp benefits based on an increase in family income.

FINDINGS OF FACT

1. The petitioner, her husband and minor child began receiving Food Stamps in April of this year when her husband was injured on the job. At the time of their initial application they had no income and received the maximum Food Stamp benefit of \$371 per month. Both parents are under the age of sixty and neither receives disability benefits of any kind.

2. Approximately a month later, the petitioner's husband began receiving worker's compensation benefits in the amount of \$1,567.73 per month (\$364.59 per week x 4.3 weeks).

3. At some point, this new income came to DCF's attention and the family's eligibility was recalculated. DCF counted the entire worker's compensation benefits minus a

standard deduction of \$134 per month. The family also received a shelter and utility deduction of \$167.13 per month. This deduction was based on shelter expenses of \$500 for rent added to a standard utility allowance of \$384 per month. The petitioner was notified on September 2, 2004 that as of October 1, her Food Stamps would be reduced to zero based on a countable family income of \$1,266.60 per month ( $\$1,567.73 - \$134 - \$167.13$ , the amount by which shelter expenses exceed 50 percent of the family's adjusted income).

4. On September 4, 2004, DCF recalculated the petitioner's eligibility based on new regulations due to go into effect on October 1, 2004. Under the new regulations, the standard utility allowance was raised to \$407 per month making the family's total shelter expense \$907. The family's new countable income was determined to be \$1,243.60 per month ( $\$1,567.63 - \$134 - \$190.13$ , the amount by which the new shelter expenses exceed 50 percent of the family's adjusted income.) The amount payable to a family with \$1,243.60 was raised by the new regulations from zero to \$19.00 per month for a family of three.

5. The petitioner says that she has no child care expenses for her son who is currently in school full-time. The family was also on Medicaid but has recently been switched

over to VHAP and Dr. Dynasaur due to their increased income. (They do not contest those decisions.) However, there are premiums in those programs which may be as much as \$190 per month for this family. There are also medical expenses not covered by VHAP which the family has to pay. The petitioner says they simply cannot pay all these expenses with their current reduced income. They agree however that the \$407 standard utility allowance given to them by DCF is close to what they are paying in the winter for utilities.

6. The petitioner's husband has just had back surgery but expects to return to work in the near future. The petitioner says she is unable to work but lost her SSI benefits based on Multiple Sclerosis due to her current improved ability to walk and care for herself and her son. She does not feel she is well enough to take on gainful employment.<sup>1</sup>

ORDER

The decision of DCF is affirmed.

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<sup>1</sup> The petitioner was advised to contact legal aid with regard to appealing her SSI termination.

REASONS

Under Food Stamp regulations adopted by DCF, the full amount of worker's compensation received by the petitioner's husband is included as unearned income when determining Food Stamp eligibility. F.S.M. 273.9(b)(2)(ii). That amount is subject to a standard deduction of \$134 (for a three-person household) and day care expenses, if the family has them. F.S.M. 273.9(d)(1) and (4). Income is also reduced by excess shelter costs which are defined as any amount over 50 percent of the family's income after other deductions have been allowed. F.S.M. 273.9(d)(5)(i). If there is an aged or disabled member in the family, that member's medical expenses over \$35 per month can also be deducted. F.S.M. 273.9(d)(3).

Neither adult in the petitioner's family is aged but both are claiming a current disability which would entitle them to the medical expense deduction. However, the term "disabled" is narrowly defined in the Food Stamp regulations to mean persons receiving Social Security disability or Supplemental Security Income (SSI) benefits.<sup>2</sup> F.S.M. 271.2. Neither adult receives such benefits. DCF was thus correct not to include an excess medical deduction for this family.

The shelter expense for this family was determined to be \$907 per month. That figure was correctly calculated by using the family's rental payment of \$500 added to the new standard utility allowance of \$407 for families who must pay all of their own utilities including heat. 273.9(d)(5) and (6), P-2590(A)(5). Fifty percent of the family's income after all other deductions is \$716.87. Their shelter expense is \$109.13 higher than that figure so DCF was correct in deducting that amount from the net income for a countable income of \$1,243.60 per month. F.S.M. 273.9(d)(5)(i). DCF is correct that a three-person household with that amount of countable income is only entitled to \$19.00 per month in Food Stamps. P-2590(D)(15). As DCF's decision is in accordance with its regulations, the Board is bound to affirm it. 3 V.S.A. § 3091(d). Fair Hearing Rule 17.

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<sup>2</sup> The regulations also include some other kinds of disability benefits, such as Veteran's and Railroad disability, none of which is applicable here.