

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. R-10/17-545
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services, denying his request for 3SquaresVT benefits (Food Stamps) for the period August 1 through October 12, 2017. The issue is whether the Department was at fault for the petitioner's failure to timely file an application for benefits for this period.

FINDINGS OF FACT

1. The petitioner has been a recipient of 3SquaresVT benefits for several years. The Department's records show that the petitioner contacted the Department by phone on April 11, 2017 to report a change of address. The change that the petitioner reported was to his zip code, from 05701 to 05702. The petitioner's street address and apartment number remained the same.

2. On June 7, 2017 the Department mailed a "Review Reminder Notice" to the petitioner at his recently-reported

address. The notice listed that the petitioner was receiving 3SquaresVT and Seasonal Fuel benefits, and it included the following:

Your case must be reviewed to see if you are still eligible for benefits. Please complete, sign and return the enclosed forms in the envelope provided. . .

Please return your completed form by July 1, 2017 so that we will have enough time to process your review. If you don't return your completed forms and complete any interviews required, your benefits will end as of July 31, 2017 for all programs. If you have any questions about this notice, please call (toll-free phone #).

3. The Department's records show no response from the petitioner to the above notice. On July 19, 2017, the Department mailed a "Seasonal Fuel and 3SquaresVT Closure Notice" to the petitioner at the same recently-reported address. The notice included the following:

As of the date of this notice, we do not have all the information we need to process your 3SquaresVT case review (rule citation omitted). Your benefits will stop on July 31, 2017.

4. The petitioner did not respond to this notice, and his 3SquaresVT benefits were terminated effective July 31, 2017.

5. The Department's records indicate that its next contact with the petitioner was a phone call from him on October 13, 2017 inquiring about his benefits. During this

call the petitioner denied receiving the above notices, and alleged that the Department had used an incorrect zip code on them. The Department advised the petitioner to file a new application, which he promptly did the same day. On that application, the petitioner gave as his zip code, 05701-5922 (although elsewhere on the application the petitioner used only a five-digit zip code 05701).

6. By notice dated October 17, 2017, the Department granted the petitioner's application for 3SquaresVT benefits, effective October 13, 2017.

7. On October 17, 2017, the Human Services Board received notice that the petitioner was appealing the denial of his request for retroactive benefits back to August 1, 2017.

8. A hearing in the matter was held on November 2, 2017. At that time the petitioner alleged he had not received the notices dated June 7 and July 19 (*supra*), but he did not dispute the address (with zip code 05702) that he had reported to the Department in April 2017. He argued that the Department was at fault for him not receiving the notices in June and July 2017 because it did not use a *nine-digit* zip code for him.

9. At the hearing the hearing officer directed the Department to provide the petitioner and the Board with its case records in the matter and with a written response to the petitioner's arguments at the hearing. The hearing officer directed the petitioner to then promptly inform the Board and the Department if he wanted to file a written response, and how much time he would need to do so.

10. The Department, through its attorney, filed its written submissions (with copies to the petitioner--using the latest nine-digit zip reported by him) on November 15, 2017. To date, the Board has heard nothing further from the petitioner.

11. The above findings of fact are based on the written case records furnished by the Department. The Department further represents that it has no record of the petitioner having or requesting that it use a nine-digit zip code for him prior to its appearance on his October 13, 2017 application and his argument at the hearing on November 2, 2017. The Department further represents that its state-wide data systems are not set up to accept anything other than five-digit zip codes--from any applicant or recipient regarding any of its programs. It also represents that at no

time did it receive any return mail that had been addressed to the petitioner.

12. There is no evidence upon which to find that the Department was in any way at fault, or that it committed any error, regarding the petitioner's failure to have timely responded to the notices that were sent to him on June 7 and July 19, 2017.

ORDER

The Department's decisions terminating the petitioner's 3SquaresVT benefits effective July 31, 2017, and denying his request for retroactive 3SquaresVT benefits for the period August 1 through October 12, 2017 is affirmed.

REASONS

Rule 273.14(a) of the Department's 3SquaresVT regulations provides:

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 certifying eligible households prior to the expiration of certification periods.

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

Based on the undisputed record, it must be concluded that the Department's notices to the petitioner dated June 7 and July 19, 2017 complied with the above provisions (and with the provisions of Rule 273.13 regarding notices of adverse action). Thus, the Department's decision terminating the petitioner's 3SquaresVT benefits effective July 31, 2017 must be affirmed.

3SquaresVT Rule 273.10(a)(2) includes the provision:

If an application for recertification is submitted after the household's certification period has expired, then that application shall be considered an initial application and benefits for that month shall be prorated in accordance with paragraph (a)(1)(ii) of this section.

3SquaresVT Rule 273.10(a)(1)(ii), referred to above, includes the following:

A household's benefit level for the initial month of certification shall be based on the day of the month it applies for benefits and the household shall receive benefits from the date of the application to the end of the month. . .

In light of the above, the Department's decision finding the petitioner eligible as of the date of his reapplication, October 13, 2017, must also be affirmed.

3SquaresVT Rule 273.17 sets forth criteria for retroactive "restoration" of benefits. In cases such as this, where the initial termination of benefits has been

upheld on appeal, the above regulation (and past Board rulings¹) limit "entitlement" to retroactive benefits to situations in which "the loss was caused by an error by the State agency". As noted above, there is no basis to find that the Department committed any "error" either in terminating the petitioner's benefits effective July 31 or in finding him eligible again as of the date of his reapplication on October 13, 2017.

In light of the foregoing, the Department's decisions in this matter must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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¹See Fair Hearing No. H-07/08-328.