

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-12/19-796  
 )  
Appeal of )  
 )

INTRODUCTION

Petitioner appeals the denial of his application for a 3SquaresVT benefit, based on a prior adjudication of his disqualification from the program, by the Vermont Department for Children and Families (Department). The following facts are adduced from a hearing held January 14, 2020.

FINDINGS OF FACT

1. Petitioner completed an application for 3SquaresVT on December 9, 2019.

2. Petitioner testified at hearing that when he filed the application he had been out of work for a period of time and would be for the foreseeable future because he will be having surgery. Petitioner stated that he has no other resource for food purchases if he does not obtain the 3SquaresVT benefit.

3. On the same date that he filed the application, the Department issued a Notice of Decision denying the

application based on documentation that petitioner is in a 10-year sanction period for an intentional program violation. Petitioner appealed.

4. At hearing, the Department introduced a copy of FSD-119, a July 11, 2014 Decision and Order by Human Services Board Hearing Officer Dan Jerman (Order). The Order was issued after hearing, at which petitioner was represented by counsel. The Order contained findings of fact and conclusions of law regarding petitioner's receipt of food stamp benefits from Vermont from August 2012 through January 2014 while simultaneously receiving food stamps from New York State during the period of September 17, 2013 through December 5, 2013, in violation of state and federal food stamp regulations. The Order held that petitioner was disqualified from receiving food stamps "for ten years from the date of this order." See Food Stamp Disqualification No FSH-119. Therefore, that disqualification period runs through July 10, 2024.

5. As a result of the prior ruling in FSD-119, petitioner is ineligible for receipt of a 3SquaresVT benefit until July 2024.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise, the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

The 3SquaresVT program "is designed to promote the general welfare and to safeguard the health and well-being of the Nation's population by raising the levels of nutrition among low-income households." See 7 C.F.R. § 271.1(a).

However, federal law, and the State Manual, also provide that if an individual has been found, after hearing, to have committed an intentional program violation relating to fraudulent receipt of benefits based on two different residence locations (here in two different states), the individual shall be disqualified from benefits for a 10-year period. See 7 CFR §273.16(b)(2)(5) [Disqualification for intentional Program violation]; 3SquaresVT Program Manual, Intentional Program Violation.

Federal law further provides that, after a duly noticed hearing, a disqualification for an intentional program violation may not be reversed by a subsequent fair hearing decision and is final, absent a subsequent ruling by a court.

See 7 CFR §273.16(e) (8) (ii) [Imposition of disqualification penalties]. Therefore, petitioner's remedy, should he disagree with the 10-year disqualification, is to bring a civil action in Vermont Superior Court.

As the Order in FSD-119 is binding on the Human Services Board, the Board must affirm the Department's decision. See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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