

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. M-12/19-844
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Appeal of)
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INTRODUCTION

Petitioner appeals the Department for Children and Families ("Department") decision to reduce her benefits under the 3SquaresVT program. The following facts are adduced from a hearing held December 9, 2019 and documents submitted by the Department. A preliminary question is whether petitioner's claim is moot.

FINDINGS OF FACT

1. Petitioner is a single person household and has been receiving 3SquaresVT benefits since 2018. For 2018 and 2019, her income entitled her to the maximum benefit allowed under the law of \$194 per month.

2. In mid-December of 2019, information concerning petitioner's income from an annuity came to the attention of the Department's Economic Services Division. Petitioner's benefits were recalculated based on this information

resulting in a Notice of Decision issued on December 19, 2019 reducing petitioner's monthly benefit to \$92.00. The new benefit amount was to take effect beginning in February of 2020. There is no dispute that the recalculation was erroneous, a fact which the Department recognized and conceded, even prior to the hearing.

3. On the afternoon of December 24, 2019 petitioner filed a Notice of Appeal with the Human Services Board. While the notice specified that petitioner was appealing a Notice of Decision dated December 19, 2019, no information or detail of any kind was provided as to what program was involved or what benefit reduction petitioner was appealing.

4. Human Services Board staff emailed petitioner twice during the week the appeal was received. First on December 24, 2019 to acknowledge receipt of the appeal and next on December 30, 2019 to try and determine what program was the subject of the appeal. No response was received from the petitioner.

5. Simultaneously, Board staff emailed the Department to try to determine under what program petitioner might be appealing.

6. A hearing was scheduled for January 9, 2019 in the Barre District Office of the Department and notice was mailed to petitioner on January 2, 2020.

7. The day prior to the hearing, the Department determined that the appeal pertained to 3SquaresVT benefits and the matter was then reviewed by Department legal staff who concluded that the recalculation and concomitant reduction in benefits was in error.

8. A new Notice of Decision was issued on January 8, 2020 restoring petitioner's 3SquaresVT benefit to the maximum monthly amount of \$194. Because the reduction had not been scheduled to take place until February of 2020, petitioner never suffered a loss of benefits due to the error.

9. At the hearing on December 9, 2019, petitioner conceded that the error had been corrected before any reduction had taken effect.

10. Petitioner testified that she wished to continue the appeal to express her extreme frustration with the bureaucratic nature of the benefit application process and the inordinate burdens that the process imposed on the disabled and persons of limited means, along with her displeasure at the Department for having made this mistake in her benefit calculation. Petitioner also asserted that the

Department's letters were never specific enough to inform her of what had occurred or what additional information was necessary and stated that it was also very difficult, if not impossible to contact the Department by telephone.

Petitioner testified that she was not the only person that was impacted by these procedures, and that she wished to be the voice for others who were similarly burdened by these processes.

ORDER

The petitioner's claim for relief states a general grievance against the Department that has been resolved, therefore, the appeal is dismissed as moot.

REASONS

The scope of the Board's authority to grant relief is set forth in 3 V.S.A. §3091(d) as follows:

After the fair hearing the Board may affirm, modify or reverse **decisions** of the agency; it may determine whether an alleged delay was justified; and it may make orders consistent with this title requiring the agency to provide appropriate relief including retroactive and

shall have the authority to reverse or modify, **decisions** of the agency based on rule which the board determines to be in conflict with state or federal law. The board shall not reverse or modify agency decisions which are determined to be in compliance with applicable law, even though the board may disagree with the results effected by those decisions.

3 V.S.A. §3091(d) (emphasis added).

There is no question that the Board would have authority to hear and order relief in a case in which a petitioner alleged that the Department had failed to correct an error in her 3SquaresVT benefit calculation.

But here, there is no longer a dispute between the parties; the Department voluntarily and expediently corrected its calculation error within two weeks of learning that the error had been made and did so long before any potential impact of the error would have occurred. In cases where the dispute has been resolved or has otherwise ended prior to the Board's review and there is no longer a 'live case in controversy' between the parties, the Board has previously ruled that the case is moot. See Fair Hearing No. A-10/09-539 (citing Fair Hearing No. 17,272).

As such, petitioner's appeal of the Department's error in the calculation of her 3SquaresVT benefit must be dismissed as moot. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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