

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. Y-12/19-775
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Appeal of)
)

INTRODUCTION

Petitioner appeals the impact of certain 3SquaresVT rules as administered by the Vermont Department for Children and Families ("Department"). The following facts are adduced from a video hearing held December 31, 2019.¹

FINDINGS OF FACT

1. Petitioner is a 3SquaresVT recipient and has been a recipient for several years.
2. As a recipient of benefits, and having been determined disabled by the federal government, petitioner is eligible to deduct certain medical expenses from her gross income for the purposes of determining her benefit amount.
3. As noted above, petitioner is not appealing a specific decision denying, terminating or reducing her

¹ Petitioner's grievance does not stem from a specific 3Squares denial, termination, or reduction; rather, Board jurisdiction putatively arises from the general language of 3 V.S.A. §3091, for individuals (who are recipients of services) "aggrieved by Agency policy as it affects his or her situation." Petitioner's appeal of a specific 3SquaresVT decision was previously addressed by the Board in Fair Hearing No. Y-10/19-634.

benefits. Rather, petitioner articulates several general complaints about program policies or rules:

a. Petitioner believes it is unjust and not sensible to allocate food assistance based (in part at least) on the level of an individual's medical needs and objects to what she describes as a constant need to verify her medical costs;

b. Petitioner believes that the requirement to report changes in income which might reduce or eliminate benefits serves as a disincentive for applicants to seek employment;

c. Petitioner argues that the program deductions do not account for the high cost of living in Vermont and the additional utility costs of disabled and/or unemployed individuals who are more likely to stay at home during the day; and

d. Petitioner requests that the Board and Department advocate with the federal government to increase the level of food assistance available, because she is unable to meet her basic needs and believes that many other people cannot live on the current amount of assistance.

4. The Department presented credible evidence that 3SquaresVT recipients who have income above 130 percent of the Federal Poverty Level ("FPL"), such as petitioner, must only report increases in income when such increases will cause the household to exceed the maximum gross income for the program; otherwise, such recipients are only obligated to report their income when they are re-certified for eligibility (typically every one (1) or two (2) years), are subject to an "interim report" mailing (typically in the middle of the certification period), or subject to quality controls or verification requests (typically when the Department is alerted by the Department of Labor when a recipient is working). In this respect, the Department indicates that petitioner is only subject to "simplified reporting" and thus is not obligated to report *all* changes in her income. However, the Department also indicates that federal rules require that changes be verified if and when such changes are reported.

5. The Department presented credible evidence that the availability of medical deductions is a benefit to someone in petitioner's situation because it reduces the amount of income counted for her benefit level, and that the Department has the option of averaging and applying a deduction for

future medical expenses, for costs that can be reasonably predicted.

6. The Department presented credible evidence that the 3SquaresVT utility deduction is based on local energy costs and that Vermont (due to heating costs) has the highest allowance of any state in the country.²

ORDER

Petitioner's appeal is denied or otherwise dismissed as failing to state a claim for relief that may be granted by the Board.

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 purpose of the 3SquaresVT program - as funded through the federal Supplemental Nutrition Assistance Program ("SNAP") - is "to promote the general welfare and to safeguard the health and well being of the Nation's

² See also <https://www.fns.usda.gov/snap/eligibility/deduction/standard-utility-allowances> (table link).

population by raising the levels of nutrition among low-income households." 7 C.F.R. § 271.1. The general requirement to report changes and for Vermont to verify such changes is a function and requirement of federal SNAP rules. See 7 C.F.R. § 273.10. As noted by the Department, medical expenses are an allowable deduction which *benefits* petitioner (as well as many other recipients). The maximum benefit level is established by the federal government. See 7 C.F.R. § 273.10(a)(4)(i); see also <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>.

There is no evidence that the Department's application of program rules related to establishing and reporting income and expenses is inconsistent with such program rules, violates any other laws, rules or requirements, or has been arbitrary or unreasonable in petitioner's case. Moreover, the Department determines benefits based on the maximum benefit allocation established by the federal government. While petitioner may state genuine and valid complaints regarding her ability to meet her basic needs despite SNAP/3SquaresVT assistance, nothing about the application of program policies and rules to her situation compels a remedy from the Board to *change or invalidate* such policies and

rules (to the extent such a remedy is even available for the Board to grant).

As such, petitioner's appeal must be denied or otherwise dismissed as failing to state a claim for relief that may be granted by the Board. See 3 V.S.A. § 3091(d).; Fair Hearing Rule No. 1000.4D.

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