

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. S-10/20-649  
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Appeal of )  
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INTRODUCTION

Petitioner appeals a reduction in 3SquaresVT, by decision of the Vermont Department for Children and Families ("Department"). The following facts are adduced from a telephone hearing held November 13, 2020, and documents submitted by the Department. The primary issue is the eligibility of petitioner's adult son, who lives in the household but is a full-time student enrolled in an institution of higher education.

FINDINGS OF FACT

1. Until this fall, petitioner's son (age 19) was included in petitioner's 3SquaresVT household and the household's benefits were calculated including the son as an eligible recipient of 3SquaresVT benefits.

2. Petitioner's son attended college full-time during the 2019-2020 academic year and had been determined eligible for 3SquaresVT through the end of his Spring 2020 semester

(and by extension the summer months) despite his status as an enrolled college student; he qualified under one of the exceptions to a rule that generally precludes eligibility of students between the ages of 18-50. The exception the son met was that he received work study and anticipated working at a work study job.

3. For the Fall 2020 semester, with the advent of the Covid-19 pandemic, petitioner's son ended up living at home while attending classes remotely (although not material, it appears this was not compulsory at the son's school, but rather an option for students). While he was initially found eligible for work study, since he was not on campus, he did not end up working and is not receiving work study.

4. As a result of this change in the son's status, the Department issued a decision dated August 19, 2020, reducing petitioner's 3SquaresVT from \$221 (as a household of 3) to \$16 (as a household of 2), effective September 1, 2020.

5. At hearing, the Department indicated that the state had inquired with the federal agency responsible for administering the Supplemental Nutrition Assistance Program - the U.S. Department of Agriculture's Food and Nutrition Services ("FNS") - about whether a waiver or modification of

the student eligibility rules was possible given that the Covid-19 pandemic had closed or limited in-person participation at numerous college campuses. The federal government declined to issue a waiver or modification of the rules in this respect (although FNS has waived or modified other rules and requirements, not applicable here).

6. There is no dispute about petitioner's eligibility and benefit level *if* his son is considered ineligible; however, petitioner contests his son's categorical ineligibility, given that he is at home studying remotely due to the Covid-19 pandemic.

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 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 population by raising the levels of nutrition among low-income households." 7 C.F.R. § 271.1.

Specific rules apply to the exclusion and inclusion of adult-age students enrolled in institutions of higher education. A student is defined as "a person at least 18 years old and under 50 years old who is enrolled at least half-time in [a] post-secondary education institution." See *3SquaresVT Program Manual* (Students). In addition, "[s]tudents must meet eligible student criteria to be a household member. A student who does not meet these criteria is ineligible for 3SVT benefits." *Id.* (emphasis in original) The student eligibility criteria include situations such as when the student is caring for a dependent child; working an average of 20 hours per week (or physically or mentally "unfit" for work); or participating in a state or federal work study program and in anticipation of working during the semester. See *id.* See also 7 C.F.R. § 273.5.

Petitioner's son does not meet any of the applicable criteria for eligibility as a student. In responding to the Covid-19 pandemic, the federal government has established and

allowed several waivers of the normal rules and requirements. However, the Food and Nutrition Service has specifically rejected several state requests to waive student eligibility criteria such as the work (or work study) requirement, despite the full or partial closure of numerous college campuses. See FNS-GD-2020-0034, April 10, 2020 (<https://www.fns.usda.gov/snap/covid-19/denial-certain-state-requests>).

As such, the Department's decision is consistent with the applicable rules and must be affirmed by the Board. See 3 V.S.A. § 3091(d).; Fair Hearing Rule No. 1000.4D.

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