

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-11/21-678
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Appeal of)
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INTRODUCTION

Petitioner appeals a reduction of her 3SquaresVT benefits, by decision of the Vermont Department for Children and Families ("Department"). The following facts are adduced from a telephone hearing held January 18, 2022, and documents submitted by the Department at hearing.

FINDINGS OF FACT

1. Petitioner was receiving a 3SquaresVT benefit in 2021 of \$488 for herself, her grandson, and her son, as a household of three (3). In September 2021, petitioner's 3SquaresVT eligibility was subject to review. Accordingly, petitioner submitted a new application dated September 30, 2021.

2. On petitioner's review application, she reported the following income, all unearned: Social Security Disability Insurance ("SSDI") income for herself of \$740 per month; a monthly adoption subsidy related to her grandson of

\$538; and a monthly long-term disability payment (through an insurance company) of \$558 related to her former employment. Petitioner's son is 18 and is not employed. Petitioner also reported a rental obligation of \$280 per month.

3. The Department indicated at hearing that the above income figures and rental costs were used to calculate petitioner's 3SquaresVT benefit amount, with the exception of the long-term disability payment. With respect to that payment, the Department utilized a bank statement from petitioner showing that the payment was \$558.36 (petitioner report \$558). Together, this would amount to a total of \$1,836.36 per month in unearned income.

4. Following petitioner's submission of her review application, the Department issued a notice of decision on November 1, 2021, with a determination that petitioner had \$1,888.36 in unearned income (a discrepancy with the above figure), a standard deduction of \$177 and a shelter utility deduction of \$299.32, for countable 3SquaresVT income of \$1,412.04. This resulted in a 3SquaresVT benefit of \$234 per month, reduced from \$488 per month. This appeal followed.

5. On appeal, petitioner objects to the inclusion of her long-term disability income, arguing that she has reported it before and it was not counted by the Department.

The Department argues that, whether or not this income was counted previously, under the rules it is the type of income that is countable.

ORDER

While the Department's inclusion of long-term disability payments in petitioner's income is appropriate, this matter is remanded back to the Department to review the discrepancy in the total income attributed to petitioner during the hearing, compared with the income figure relied upon in the Department's November 1, 2021, decision.

REASONS

Review of the Department's determination is de novo. Because this appeal concerns a reduction of benefits, the Department has the burden of establishing by a preponderance of evidence that its determination is consistent with the applicable rules. Fair Hearing Rule 1000.3.0.4.

The 3SquaresVT program is designed "to help low-income persons and families stretch their food budget to put three healthy meals on the table every day." See 3SquaresVT Program Manual ("Manual"), Purpose. To meet this purpose and calculate benefit levels, the Department makes a determination of countable income and deductions under the

rules. See Manual, Income and Determining Income and Deductions.

In determining eligibility, the Department first calculates gross household income, including all earned and unearned income. See Manual § 1500.1, Determination of Household Income. While petitioner objects to the inclusion of the long-term disability payments she receives, this is clearly considered a source of income under the rules. Manual, § 1500.2.23 [Disability Benefits].¹

However, the income figures presented by the Department at hearing are not consistent with the total income amount used to calculate petitioner's 3SquaresVT benefit cited in the Department's November 1, 2021, decision. The income figures in evidence would result in a lower amount of monthly income, which could result in a higher 3SquaresVT benefit for petitioner. The Department reported at hearing that, currently, due to the Covid-19 public health emergency, the Department is providing a maximum benefit to all households eligible for a benefit at any level. Thus, there is no prejudice to either party to remand petitioner's appeal to the Department for further review of the income discrepancy.

¹ The payments made to petitioner were through an insurance company, not directly from her former employer and thus were properly counted as unearned income by the Department. See *id.*

As such, while the Department's inclusion of petitioner's long-term disability income is consistent with the rules, this matter must be remanded back to the Department for further review of the calculation of petitioner's total unearned income and resulting benefit.² See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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² At hearing, petitioner also indicated that she has potential medical costs which she may submit to the Department for review as an additional deduction from income.