

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/08-25
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, assessing an overpayment for the month of November 2007. The issue is whether the Department correctly assessed an overpayment for the month of November 2007.

FINDINGS OF FACT

1. The petitioner lives with his wife and minor child; petitioner's household comprises a three person Food Stamp household. Petitioner is disabled and receives \$581.28 per month from the Social Security Administration. Petitioner's wife works during the academic year.

2. Petitioner's wife returned to her job on or about August 24, 2007. Her wages were not reported to the Department by the petitioner or his family.

3. According to petitioner, his wife did not work for the full month of September 2007. He also explained that his wife received one paycheck in October that represented wages

for a two week period. Based on the employer's information, the wife normally earns \$405.22 per week.

4. The Department obtained wage information from the wife's employer. The Department determined that any potential overpayment was due to inadvertent household error. The Department had already paid petitioner \$426 in Food Stamps for November.

5. The October wage information for petitioner's wife includes three paychecks:

October 11	72 hours	\$726.77
October 18	40.1 hours	404.21
October 25	40.2 hours	<u>405.22</u>
Total		\$1,536.20

Using the wife's actual earnings, her worker's compensation of \$185.55, and petitioner's disability income, petitioner had income of \$2,303.03 during October. After deducting the \$134 standard deduction, petitioner had net income of \$2,169.03. This income exceeded the monthly limit of \$1,431 per month for a three person household. As a result, the Department determined that petitioner was not eligible for Food Stamps in November.

6. The Department sent petitioner a notice dated December 12, 2007 that his household had been overpaid \$426

in Food Stamps for November. Petitioner appealed and his case was heard on February 21, 2008.

7. The Department's determination that the household was overpaid \$426 in Food Stamps is correct.

ORDER

The Department's determination that petitioner was overpaid Food Stamps in the amount of \$426 for November 2007 is affirmed.

REASONS

The amount of Food Stamps a household receives is based upon a complex formula that takes into account both earned and unearned income coming into the Food Stamp household. Food Stamp Manual (FSM) § 273.9. In addition, households are mandated to report changes in their income within ten days of any change so that the Department can make timely changes to the amount of Food Stamps. FSM § 273.12(a)(2).

When a change to income is not promptly reported, the household may be overpaid Food Stamp benefits. In those cases, the Department is required to establish a claim for those benefits from the household. FSM § 273.18(a).

Because the petitioner's household did not timely notify the Department of the wife's wages, the Department correctly

determined that the overpayment was due to inadvertent household error. The 20 percent earned income deduction that is normally used in calculating the amount of Food Stamps is not used in calculating the amount of Food Stamps when there is inadvertent household error. FSM § 273.18(c)(1)(ii)(B).

The Department correctly determined that the petitioner was overpaid Food Stamps for November 2007 because the household's income exceeded the monthly limit of \$1,431 for a three person household. P-2590C. Accordingly, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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