

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-01/09-05
)
Appeal of)

INTRODUCTION

The petitioners appeals decisions by the Department for Children and Families, Economic Services Division, finding him over-income for Reach Up Financial Assistance (RUFA) and reducing his Food Stamps. The issues are whether the Department correctly determined his eligibility for RUFA and correctly determined the amount of petitioner's Food Stamps.

A fair hearing was held on January 14, 2009. After the hearing, the petitioner was given the opportunity to update his information with the Department to determine whether changes should be made to the determinations. The Department has reported that the information was not forthcoming.

The decision is based on the evidence adduced at fair hearing.

FINDINGS OF FACT

1. The petitioner is a single parent who has custody of three of his minor children.

2. The petitioner is a carpenter. Petitioner worked as a subcontractor for C.P. until November 20, 2008. C.P. is also petitioner's landlord. Petitioner worked for C.P. for approximately four years. He was paid \$17.00 per hour. As of January 12, 2009, petitioner started other employment.

3. Petitioner applied for RUFA on December 2, 2008. Petitioner had been receiving Food Stamps. S.B., eligibility specialist, explained that the Department looked at whether there had been a change in petitioner's income in determining his Food Stamps.

4. S.B. testified that they sought income verification from petitioner and verification of the termination of his employment. On December 2, 2008, petitioner gave the Department a hand-written statement from C.P. dated November 30, 2008 that petitioner earned \$1,630 for the period of November 1 to 21, 2008. According to S.B., Department records indicated that petitioner was ordinarily unemployed this time of year.

S.B. testified that the Department gave petitioner an Employment Termination form to be completed by C.P. This form was not returned. S.B. stated that on December 24, 2008, the Department received from petitioner a hand-written statement by C.P. that petitioner earned \$24,945 for 2008 and

this amount would be petitioner's Form 1099. S.B. testified that the Department did not receive any information from petitioner about his business expenses.

The Department proceeded to determine RUFA eligibility and Food Stamp benefits based on the information they had on file including petitioner's 2007 income tax return. In cases where individuals are self-employed, they look at the last filed income tax returns unless there has been a significant change.

5. On December 29, 2008, the Department sent petitioner a Notice of Decision that he was ineligible for RUFA assistance for the month of December 2008. The Department determined that petitioner's monthly net business income was \$2,398.26. After applying the earned income deduction, petitioner had countable income of \$1,648.70 that exceeded the maximum monthly benefit of \$770.48.

6. On December 29, 2008, the Department sent petitioner a Notice of Decision that his Food Stamps would change from \$359 per month to \$196 per month effective February 1, 2009 noting that his gross earned income had changed from \$1,828.35 to \$2,506.58. Petitioner appealed in sufficient time to obtain continuing benefits.

7. The petitioner testified that C.P. terminated his employment on November 21, 2008 and that C.P. would not complete the Employment Termination Form. He testified that he usually has \$3,500 to \$4,000 in business expenses each year. Petitioner was given time to provide S.B. with his business records.

ORDER

The Department's decision denying RUFA for December 2008 is affirmed and the Department's decision concerning Food Stamps is considered moot.

REASONS

RUFA

The RUFA program provides financial assistance to low income households who have minor children. Eligibility is based upon the income and resources of an applicant. The Department has thirty days to act upon a RUFA application. W.A.M. § 2210. The Department looks to the applicant as their primary source of information when determining eligibility. W.A.M. § 2211. In particular, the Department looks at the income of the thirty day period prior to application in making a determination. In cases of self-

employed applicants, the Department will look at the applicant's last income tax return. W.A.M. § 2211.3.

In petitioner's case, petitioner gave the Department two written statements from C.P., his prior employer, showing wages for November 2008 and showing 2008 earned income. The Department acted on the information petitioner provided to them when determining whether his available monthly income exceeded the payment standard for a household of four.

Determining available monthly income for RUFA is a complex process that starts with a determination of the ratable reduction of an applicant's basic needs standard and basic shelter expenses. W.A.M. §§ 2245.2 and 2245.24. The next step is determining the monthly amount of an applicant's income after taking into account allowable deductions such as the earned income deductions. W.A.M. §§ 2253, 2253.1, and 2253.33.

In the best case scenario, the Department needed to use the last thirty days of income or November's wage of \$1,630 to determine eligibility for the month of December 2008. Based on this income, petitioner's countable income would be \$1,082.50 (after applying the standard employment expense deduction). This amount exceeds the payment standard of

\$770.78 making the petitioner ineligible for RUFA for the month of December 2008.

If there is a change in petitioner's circumstances, the petitioner can apply for assistance in the future.

Food Stamps

The Food Stamp Program was created to combat hunger and malnutrition among low income households. Food Stamp Manual § 271.1. The amount of Food Stamps a household receives is based upon a complex formula that is set out in the Food Stamp Manual (FSM) and that reflects the level of federal funding for the Food Stamp Program. FSM § 273.9. This formula includes all earnings except for those earnings that are specifically excluded. FSM § 273.9(b).

Changes to a household's income trigger a recalculation of Food Stamp benefits. Recipients need to keep the Department informed within ten days of any change to their income, address, shelter costs, etc. Here, the Department acted on the information they had in December 2008 to determine benefits starting February 1, 2009. Although there are questions regarding the Department's determination of monthly income, the issue is moot.

In the period between filing the request for fair hearing and the fair hearing, petitioner started other employment. The change in his circumstances moots out the December 29, 2008 Food Stamp Notice of Decision. The Food Stamp issue is remanded to the Department to determine eligibility based upon the petitioner's circumstances starting January 12, 2009.

Based on the above, the Department's decision to deny RUFA eligibility for December 2008 is affirmed and the Department's decision to reduce petitioner's Food Stamps is moot and the case is remanded for updated Food Stamps determination. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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