

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-01/11-58
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Security Division, decreasing the amount of 3SquaresVt (food stamps) that her household receives. The issue is whether the Department correctly determined the amount of petitioner's food stamps when her income changed. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner has guardianship of her granddaughter through the Probate Court. Petitioner and her granddaughter comprise a two-person food stamp household. The Department pays a child-only Reach Up benefit for the granddaughter in the amount of \$434 per month.

2. Petitioner recently became unemployed. When petitioner was employed, she earned \$1,236.45 per month. Her household received \$120 per month in food stamp benefits while petitioner worked.

3. Petitioner timely reported the loss of her job. Petitioner now receives unemployment compensation in the amount of \$311 per week. The Department calculates monthly income by multiplying weekly income by 4.3 weeks. In petitioner's case, the Department calculated \$1,337.00 per month in unemployment benefits.

4. The Department issued a Notice of Decision on January 6, 2011 reducing petitioner's food stamps to \$16.00 per month effective February 1, 2011. Petitioner filed a timely appeal and is receiving continuing benefits.

5. When petitioner was employed, the Department applied an earned income deduction that lowered her countable income for food stamp calculations. Petitioner's unemployment compensation is considered unearned income and the earned income deduction is not applied to food stamp calculations.

ORDER

The Department's decision to reduce petitioner's food stamps is affirmed.

REASONS

The Food Stamp Program was created to combat hunger and malnutrition among low income households. Food Stamp Manual

(FSM) § 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.

The petitioner disputes the designation of unemployment compensation as unearned income since her past employment triggered her eligibility for this benefit and she disputes how the Department calculates monthly wages. Petitioner's concerns stem from the major reduction in her monthly food stamp benefits although her household's monthly gross income is similar.

The Food Stamp Program has specific regulations defining the types of income that are earned, unearned, and excluded from consideration. FSM § 273.9. Unemployment compensation is included in unearned income; FSM § 273.9(b)(2) states that unearned income includes:

- ii. Annuities, pensions, retirement, veteran's, or disability benefits; worker's or **unemployment compensation** including any amounts deducted to repay claims for intentional program violations as provided in section 272.12; old-age, survivors, or social security

benefits; strike benefits, foster care payments for children or adults who are considered members of the household;. . .(emphasis added.)

When the wording of a regulation is unequivocal, the Board must follow the regulation's meaning. The Department is correct in counting unemployment compensation as unearned income.

In terms of calculating petitioner's monthly unemployment compensation, the Department multiplied her weekly benefit by 4.3 weeks. In looking at the calendar year, there are 4.3 weeks per month (365 days divided by 12 months). The relevant regulation is FSM § 273.10(c)(2)(i) that states:

Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever, a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 . . .

The Department has properly calculated petitioner's food stamps based upon the regulations. Based on the foregoing, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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