

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/12-08
)
Appeal of)

INTRODUCTION

The petitioner prepaid his fuel supplier for delivery of fuel at the end of September 2011. The Department approved petitioner for seasonal fuel assistance through Notice of Decision dated November 16, 2011. The petitioner appeals the decision by the Department for Children and Families, Office of Home Heating Fuel Assistance, to deny petitioner a refund for the amount of fuel petitioner prepaid for the 2011-2012 fuel season.

A fair hearing was held on February 9, 2012. The material facts are not in dispute. The issue is whether the regulations allow for direct payment to the petitioner.

FINDINGS OF FACT

1. The petitioner is a household of one. He lives in a rural area; his driveway is not passable for a fuel delivery truck during winter weather conditions and during mud season. Petitioner uses kerosene and wood as heating sources.

2. Petitioner was denied seasonal fuel assistance for the 2010-2011 heating season because his income was too high. Petitioner testified that his income remained the same so he believed he would not qualify for seasonal fuel assistance for the 2011-2012 fuel season. He does not recall submitting an application for the 2011-2012 fuel season and was surprised when he was notified of his eligibility in November 2011.

To make sure that he had kerosene for the heating season, petitioner contracted with a fuel company for delivery of kerosene on or about September 29, 2011. He wanted to ensure delivery while his driveway was passable. Petitioner paid the fuel company \$561.92.

3. The Department issued petitioner a Notice of Decision on November 16, 2011 informing him that he was approved for fuel assistance in the amount of \$435.00. That sum has been sent to the fuel company and remains as a credit that petitioner can use before the end of the heating season. Petitioner is concerned that he will be unable to use the credit and will be without the benefit of seasonal fuel assistance for this heating season.

In January 2012, petitioner was notified that he is eligible for an additional \$376.00 in fuel assistance.

4. Petitioner attempted to get a refund from the Department. Petitioner and R.M. from the Department corresponded and spoke to each other leading to this fair hearing when the Department would not give a refund.

5. R.M. is the program chief for the Office of Home Heating Fuel Assistance.

6. The fuel season runs from November 1 through March 31. Monies that are not used during the fuel season are refunded to the Department with certain exceptions. R.M. explained that if deliveries cannot be made by April due to driveway conditions, the Department can grant an exception to allow the use of seasonal fuel assistance when the driveway becomes passable. R.M. testified that petitioner's fuel company is aware of the policy. R.M. testified that he could make an exception in this case. Petitioner would then be able to fill his tank at the end of the heating season.

ORDER

The Department's decision is affirmed.

REASONS

The laws governing the Vermont fuel assistance program are found at 33 V.S.A. §§ 2601, *et seq.* The Legislature amended the fuel assistance program last spring to simplify the application process, remove the resource limits, and change income eligibility to a gross income test. H.456, No. 88, § 3.

Seasonal fuel assistance payments are made directly to the certified fuel provider¹ who maintains a credit balance for the household from which payments are deducted during the fuel season. W.A.M. §§ 2951-2953.

The pertinent portions of the regulations are:

2951 Benefit payments to households are made as follow:

A. For eligible households responsible for making payments for their heat directly to a fuel supplier certified by the Fuel Program the annual benefit will be issued as a line of credit directly to the households certified fuel supplier. . .

2952 Benefits shall be used for primary home heating fuel or energy purchased during the heating season from November 1 to March 31, or as otherwise permitted in this section. Under no circumstances will fuel suppliers be allowed to pay a benefit or a credit balance to a fuel household.

. . . Any credit balance outstanding on March 31 may be applied to home heating fuel or energy delivered in the month of April.

¹There are separate provisions governing wood suppliers.

2953 All benefit payments remain the property of the state of Vermont until actually used by the fuel supplier for the provision of home heating fuel to eligible households.

In the event that on April 30 of any year a credit balance exists . . . for a household . . . that certified fuel supplier is to pay the amount of this credit balance to the Office of Home Heating Fuel Assistance no later than May 31 of the same year.

The Department, in recognition that driveways in rural areas may not be passable due to mud season, extends the window for delivery past April 30 when necessary. This extension may apply to petitioner.

Petitioner has a credit balance with his fuel supplier and he can use these funds at the end of the heating season to fill his tank for the next heating season. There is no provision in the regulations to permit reimbursement for payments prior to the receipt of seasonal fuel assistance.

The Department acted in accord with the regulations. The Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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