

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/15-97
)
Appeal of)

INTRODUCTION

Petitioner appeals the closure of his 3SquaresVT benefits by the Vermont Department for Children and Families ("Department"). The following facts are adduced from a hearing held February 19, 2015¹ and a telephone status conference on March 12.

FINDINGS OF FACT

1. Petitioner was a recipient of 3SquaresVT benefits in September of 2014, during which month the Department mailed him an Interim Report (IR) form dated September 24. The IR form was to be returned by October 15, or - as warned on the form - petitioner's benefits would end.

2. Petitioner did not return the form by October 15. The Department mailed him a Notice of Decision on October 20 that his 3SquaresVT would close on October 31, and advising him to contact the customer service center to avoid closure of his benefits.

¹ Petitioner's hearing was initially scheduled for February 12 but continued to February 19 at his request.

3. Petitioner states that he never received the IR form but did receive the Notice of Decision. He contacted the customer service center on October 23, and was told he needed to submit the IR form. Petitioner submitted the form on October 28, listing at least one significant change in his circumstances: that he had stopped working and thus was no longer earning income from work. Petitioner had been earning income from three out-of-state companies.

4. Based on his responses to the IR form, the Department sought to verify his resources from financial aid and his employment status. The Department was unable to do so in the time between October 28 and October 31.² Petitioner was advised by phone on two occasions on October 31 that his benefits would be closing and he should reapply.

5. Petitioner did not reapply but maintained contact with the Department regarding his 3SquaresVT in the following months. He ultimately provided his financial aid information to the Department's satisfaction, but did not do so with respect to the change in his work income.

6. The record has several references to phone calls between petitioner and Department staff and representatives

² The Department typically uses certain forms for the verification of financial aid - to be completed by the educational institution - and employment status - to be completed by the employer.

from November of 2014 through January of 2015. While the conversations were often combative, petitioner was consistently advised to reapply. During one call on January 21, petitioner was asked if he wanted a fair hearing, which he declined, saying he would reapply.

7. Petitioner requested a fair hearing on January 29, approximately three months after the closure. He did not reapply during this time period nor has he reapplied to date.

8. Petitioner states that he is not comfortable using the form that the Department has promulgated to verify changes in employment status because it does not adequately describe his circumstances - as a full-time student over 50, petitioner states he is choosing not to work, not ending his employment. Because he wants to maintain his employment status with the companies he was previously working for, he is concerned it will be confusing to these employers to certify that his employment has ended, and this might affect his employment status.

9. The Department is open to alternative methods of verification. Worker efforts to reach petitioner's employers by phone have been unsuccessful. Petitioner indicated he would provide documentation from his employers that he had not earned income during the months in question, but did not

do so by the close of business on March 17, the deadline set by the hearing officer.³

10. Petitioner states he has not reapplied for 3SquaresVT because he believes his benefits were wrongly closed and that issue should be resolved, in effect as a matter of principle. He also maintains that the Department misunderstood his situation and requests verification of his employment status to enforce 3SquaresVT work requirements. The Department maintains that verification is necessary because he reported a change in income.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of establishing, by a preponderance of evidence, the appropriateness of its determination under the applicable rules.

³ After this recommendation was drafted and prepared for the Board, petitioner faxed a form filled out by one of his employers indicating he had not earned wages since July of 2014. Nothing has been submitted as of yet regarding his other employers. The Department and the Board are subject to federal requirements which direct that a 3SquaresVT appeal be processed no later than ninety (90) days of when the appeal is filed. See 7 C.F.R. § 273.15(g) (depending on the length of any requested continuance). Petitioner is free to request a new fair hearing or to reopen this appeal based on any new information he wishes to submit.

Under the 3SquaresVT program, the Department must periodically review the continuing eligibility of recipients, who have an obligation to report any changes. See Food Stamps ("FS") Rules § 273.10(f); 3SquaresVT Interpretive Memo Re: Rule 273.10(f); and FS Rules § 273.12. This is the basis for the Interim Report form that petitioner was mailed and requested to complete and return. While there is a dispute as to whether petitioner received the IR form in September, he did receive a notice of closure and subsequently returned the form prior to the October 31 closure.

The verification sought by the Department regarding his change of income from work is reasonable under the circumstances. While petitioner has provided a valid reason as to why he is not comfortable with the end of employment form typically utilized in these situations, the Department has not been able to verify using alternative methods nor has petitioner followed through on his stated intent to provide alternative verification with which he would be comfortable.

The Department has established that closure of petitioner's benefits as of October 31, 2014, for lack of verification, is appropriate under the rules. See FS Rules § 273.14, generally; Fair Hearing No. B-12/14-1272 (3SquaresVT closure appropriate for refusal to verify). The Department's

decision must therefore be affirmed by the Board. See 33
V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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