

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,028
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her Food Stamp benefits. The issues are whether the petitioner's ex-husband must be included as a member of the petitioner's Food Stamp household and whether the household's gross income exceeds the program maximum. The facts are not in dispute.

FINDINGS OF FACT

1. Until October 2002 the petitioner, who lives with her three children, received Food Stamps for a household of four persons. The household's income consisted of the petitioner's wages from employment, Social Security benefits received by her children, and child support paid by her ex-husband.

2. At a periodic review of the household's eligibility on August 29, 2002 the petitioner reported that her ex-husband had moved into the home as a "boarder". The petitioner maintains that she "rents the couch" in the living room for him to sleep on and charges him \$242 a month in "rent". According to the petitioner he does not eat with the family or otherwise participate in the family's affairs, even though he

is the children's father.

3. The petitioner does not dispute that her home is presently her ex-husband's primary place of residence.

4. The petitioner does not dispute that if her ex-husband's income is considered, her household's gross income is in excess of the maximum gross income limitation of \$2,295 a month for a household of five. (See infra.)

5. On September 17, 2002 the Department notified the petitioner that she would not be eligible for any Food Stamps as of October 1, 2002 based on this increase in countable household income. The petitioner maintains that neither her ex-husband's income nor the Social Security payments to her children should be counted in determining her and her children's eligibility for Food Stamps.

ORDER

The decision of the Department is affirmed.

REASONS

In determining eligibility for Food Stamps the regulations include in the definition of a "household" individuals who "live together and customarily purchase food and prepare meals together." FSM § 273.1(a)(1). The regulations further require: "The following individuals living with others or groups of individuals living together shall be considered as customarily purchasing food and preparing meals

together, even if they do not do so: . . . Parent[s] living with their natural, adopted, or step-children twenty-one years of age or younger." FSM § 273.1(a)(2)(c). The regulations make no exception for parents of children who are living with their children but who are divorced from each other. In this case it is clear that both the petitioner and the petitioner's ex-husband are "living with" their children within the meaning of the above regulations. Thus, the Department was correct to include the petitioner's ex-husband as a member of the household for purposes of Food Stamps and to consider his income in determining the household's eligibility for that program.

The Food Stamp regulations further provide that all earned and unearned income, including Social Security benefits received by any member of the household, is countable as gross income. F.S.M. § 273.9(b). That total gross income is then subjected to an initial gross income test (presently 130 percent of federal income poverty levels) to determine eligibility. F.S.M. § 273.9(a). No deductions are allowed at this stage of the eligibility process. (Several deductions are allowed for those households that pass the gross income test.) The gross income eligibility standard at present is \$2,295 for a household of five. Procedures Manual § P-2590 C.

As noted above, as of the date of the Department's actions in this matter, the petitioner's household's gross income was in excess of \$2,295 a month. Inasmuch as the

Department's action terminating her Food Stamp benefits was in accord with the regulations, the Board is bound to uphold it. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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