

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,033  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying his application for Home Heating Fuel assistance based on his receipt of a fuel allowance through the Section 8 subsidy program.

FINDING OF FACT

1. The petitioner is a single man who has income of \$622.04 per month, \$479 of which is from Social Security and the remainder from Supplemental Security Income (SSI). He lives in a two-bedroom apartment heated with propane gas. His apartment is subsidized through the Section 8 program but he is responsible for his own heating costs.

2. The petitioner applied for the fuel heating program on July 18, 2002. He was notified on September 9, 2002 that his request was denied because his "estimated annual heating cost is less than the allowed minimum heating cost to be eligible to receive assistance."

3. A budget attached to this notice shows that the petitioner's net fuel income was calculated as \$472.00 after a \$150 deduction based on his disability. He easily met the maximum income test of \$923. However, PATH calculated the petitioner's annual heating cost to be \$637 and his annual heating subsidy from the housing authority to be \$732. It deducted the subsidy from the cost and obtained a balance of zero, an amount which is far below the \$125 minimum heating expense required for assistance.

4. The petitioner presented evidence that his actual heating cost was not \$637 last season but rather \$1,096.50. If that figure had been used, the petitioner would have had over \$300 in unsubsidized heating costs.

ORDER

The decision of the Department is affirmed.

REASONS

PATH's regulations adopted for the operation of the seasonal fuel assistance program require that a primary heating fuel cost be determined for each household using standard heating cost tables ("proxy" tables). W.A.M. § 2906.2(b) and 2906.4. The latter regulation explains that the

"tables were derived from the actual home heating consumption of fuel assistance recipients and developed in consultation with experts in the home energy field." Id. The Board has determined in prior fair hearings that the use of this "proxy" table as opposed to the use of actual figures, is an allowable methodology under the statute and regulations. See Fair Hearing Nos. 16,720, 17,314, 17,356, and 17,435. Therefore, PATH was not incorrect to refer to its table in determining the petitioner's heating costs rather than attempting to calculate his actual costs.

According to the "proxy" table, the heating fuel cost for a two-bedroom unit in a multi-family dwelling heated with propane gas is \$637 per year. W.A.M. § 2906.4. The regulations further provide that for persons who participate in a federally subsidized housing program, this annual heating cost must be "reduced by the standard heating subsidy deduction" to yield a "net annual heating fuel cost." W.A.M. 2906.1 and 2906.2. As the regulation explains, this "standard is derived from Housing and Urban Development (HUD) heating subsidy amounts, called allowances by HUD, which are developed by the Vermont State Housing Authority and are specified by housing type, fuel type, and number of bedrooms." Id. The validity of this regulation has also previously been upheld by

the Board. See again Fair Hearing Nos. 16,720, 17,314, 17,356, and 17,435.

For a unit of the petitioner's type, size and primary fuel source, the "standard heating subsidy" is \$732 per year. Procedures Manual 2905C. Under the above regulation, the petitioner's \$637 annual heating cost must be reduced by his \$732 annual heating subsidy to get a "net annual heating fuel cost." The net from this calculation is zero. This amount must be compared with the minimum heating fuel costs found in yet another table at W.A.M. 2906.3. If the figure is below that amount, the petitioner cannot be eligible for benefits. W.A.M. 2906.2(c). This last table connects the minimum annual heating fuel cost to the income of the applicant. The lower the income, the lower the required heating liability. However, under this regulation, the lowest minimum annual fuel heating requirement for any income group is \$125, W.A.M. § 2906.3. As the petitioner has no annual heating requirement at all under these regulations, let alone \$125, he is eliminated from eligibility for his failure to meet this minimum fuel cost amount.

The petitioner should be aware that there is a separate crisis assistance program that can be used to "alleviate an emergency due to lack of heating capacity for individual

households." W.A.M. § 2950. If the petitioner should find himself without resources to pay for heating fuel this winter, he should contact PATH regarding eligibility for this program.

# # #