

2. The petitioner applied for heating fuel assistance on August 22, 2005. Based on this income, the petitioner was found financially eligible for the program. However, the Department also considered the total amount of his fuel liability in its eligibility calculations. His fuel liability was calculated at \$663 per year using tables adopted by the Department. From this liability amount, the Department deducted the yearly amount of the heating allowance given to the petitioner by the housing authority, \$540, which was established by reference to another table. Thus, the Department determined that the petitioner has net heating fuel costs of \$123.

3. The petitioner was notified on September 19, 2005 that his fuel application was denied because his annual heating cost is less than the allowed minimum heating cost to be eligible to receive assistance, which is \$219.

ORDER

The decision of the Department is affirmed.

REASONS

The Department'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 e.g., Fair Hearing No. 17,937. Therefore, it must be concluded that the Department correctly referred 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 one-bedroom unit in a multi-family dwelling heated with propane gas is \$663 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, e.g., Fair Hearing No. 17,937.

For a unit of the petitioner's type, size, and primary fuel source, the "standard heating subsidy" is \$540 per year. Procedures Manual 2905C. Under the above regulation, the petitioner's \$663 annual heating cost must be reduced by his \$540 annual heating subsidy to get a "net annual heating fuel cost." The net from this calculation is \$123. This amount must be compared with the minimum heating fuel costs found in yet another table at 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 \$219. W.A.M. § 2906.3. As the petitioner's net annual heating requirement is deemed to be less than \$219, he is eliminated from eligibility for not meeting this minimum fuel cost amount.

The petitioner should be aware, however, 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 can contact the Department regarding eligibility for this program.

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