

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 8210
)	
Appeal of)	
)	

INTRODUCTION

This matter is again before the board pursuant to a highly unusual "Motion to Reopen and for Clarification" filed by the Department of Social Welfare on November 2, 1988. In this matter, the board on March 22, 1988, had entered an Order reversing the department's decision requiring the inclusion in the petitioner's food stamp grant of the father of one of the petitioner's children. The board ruled that since the father was over age 65, he was entitled under the federal statute (7 U.S.C. § 2012(i)) to status as a separate household for food stamp purposes.

The department appealed the board's ruling to the Vermont Supreme Court. However, it then discovered that the statute relied upon by the board in its ruling did not take effect until two weeks after the department's initial decision in the matter. The department moved for, and was granted, a dismissal of its appeal before the Supreme Court. It now moves the board for a "clarification" of its ruling in light of the version of the statute that was in effect at the time. The department concedes that in light of the statute in

effect at that time, the board's ruling was "correct".

ORDER

Considering the "correct" version of the statute in effect at the time in question, the board's ruling remains unchanged.

REASONS

The "correct" statute (i.e., the version of 7 U.S.C. § 2012(i) that was in effect on September 14, 1987) fully supports the board's analysis. Under this version, there appears no basis whatsoever to conclude that the father of the petitioner's child is not entitled to "separate household" status. For this reason, the department's decision of September 14, 1987, remains reversed.

However, although the board now "clarifies" its ruling in this matter by specifying that it is based on the version of 7 U.S.C. § 2012(i) that was in effect in September, 1987, this does not mean that the board's interpretation of the version of the statute that took effect on October 1, 1987, was incorrect as applied to the circumstances of the petitioner's case. The board, its hearing officers shall, and the department should, continue to rely on the board's analysis of this statute in future cases involving similar circumstances.

#