

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/14-69
)
Appeal of)

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner appeals the determination of the Department for Children and Families ("Department") that one member of his household is no longer eligible for 3SquaresVT benefits because of newly-imposed work requirements, resulting in a reduction in monthly household benefits.¹ Petitioner and his housemate were previously found eligible for 3SquaresVT benefits as a household of two. Commencing January 1, 2014, the Department imposed work requirements on petitioner's household as part of a broader implementation of Able-bodied Adults Without Dependents (ABAWD) rules encompassed in 3SquaresVT Rules, § 273.7. The Department has indicated that it previously had a waiver from the federal government, which ended, under which these rules were suspended.

The Department reviewed petitioner's case and determined that one member of the household did not meet ABAWD requirements to be employed or working in a community service

¹ Petitioner's household is receiving continuing benefits at the previous level while the appeal is pending.

program for a minimum number of hours per week, was not unable to work due to disability, and did not meet any other exemption from the requirements as specified in the rules. Petitioner disputes this determination.

During the pendency of petitioner's appeal several other appeals have been filed with the Board related to the Department's implementation of ABAWD requirements which have resulted in the termination or reduction of 3SquaresVT benefits. The Board's Chief Hearing Officer has transmitted a memorandum to the Department requesting additional information and documentation regarding the implementation of these requirements, including specific information and documents relating to the federal waiver and its termination, federal guidance on the application of exemptions from the requirements, and whether implementation is consistent with Vermont's Administrative Procedures Act ("APA") and in particular the Vermont Supreme Court's decision in *In re Diel*, 158 Vt. 549 (1992). This request and the Board's review of this information remains pending.²

² In no way should the pendency of these issues be construed to mean the Department has not been responsive or not acted in good faith.

Petitioner's appeal was filed on January 30, 2014 and hearings held on February 13 and February 20.³ The Department and the Board are subject to federal requirements which direct that a 3SquaresVT appeal be processed within ninety (90) days of when the appeal is filed. If no Board order is issued within this timeframe, Vermont is arguably not in compliance with these requirements.

ORDER

The Department's decision is remanded for full consideration of the issues raised by the Department's implementation of ABAWD requirements.

REASONS

Several appeals, including petitioner's, are pending before the Board related to the Department's implementation of § 273.7 of the 3SquaresVT rules, also known as ABAWD requirements. There is a pending request to the Department to address several substantive legal issues, and provide additional documentation relating to such issues, all of which may affect the outcome of petitioner's appeal. Given the incomplete record presently before the Board, the

³ Petitioner requested and was granted additional time to establish that his housemate is unable to work due to disability.

Department's reduction of petitioner's household benefits cannot be affirmed based on ABAWD requirements. Accordingly, the Department's decision in this case must be remanded for full consideration of the issues attendant to implementation of ABAWD requirements.

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