

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 16,122  
 )  
Appeal of )  
 )

INTRODUCTION

The petitioner appeals the termination of his Food Stamps. The issue is whether the petitioner meets the eligibility criteria as a "qualified alien" under the pertinent regulations. The following facts are not in dispute.

FINDINGS OF FACT

1. The petitioner is a legal alien who entered the United States in September, 1992, from the Ukraine. He has a Green Card and a pending application for U.S. citizenship, but he has been unemployed for several years and lacks the necessary fees for citizenship.

2. The petitioner has applied for SSI benefits based on disability. He receives therapy for chronic anxiety. He has not worked since he entered the U.S.

3. The petitioner received Food Stamps until September, 1999, when the Department notified him that he no longer qualified as an eligible alien.

4. The petitioner alleges that before he came to the United States he worked for over ten years in what was then the Soviet Union, including time in that country's armed forces fighting in Chechnya.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp regulations regarding citizenship and alien status are reproduced on the following pages:

The provision in the above regulations that applies to the petitioner in this matter is Paragraph 3.<sup>1</sup> The petitioner is a lawful alien who entered the country in September, 1992. It is clear under the above provisions that he can qualify for Food Stamps only if he can demonstrate 40 quarters (or ten years) of qualifying work. As noted above, the petitioner has not worked since he has been in the U.S.

At the hearing in this matter, held on October 6, 1999, the Department represented (although the hearing officer can find no support for it in the regulations) that it might be able to consider work performed by the petitioner before he came to the U.S., provided the petitioner can verify this work.<sup>2</sup>

It is also not clear if the petitioner can qualify for Food Stamps if he is found to be eligible for SSI based on disability. The petitioner represented that he was in the process of appealing a decision denying him SSI (although it is not known if his denial was based on a decision regarding disability or based on his lack of citizenship). Again,

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<sup>1</sup> Prior to this year the petitioner qualified for Food Stamps under Paragraph a(2)(I) of the above regulations, which was extended by a change in the federal statutes (effective Nov. 1, 1998) to aliens living in the U.S. for under 7 years (see PP & D Memo 11/1/98, Facing Page 273.4a).

<sup>2</sup> To this end the petitioner was advised to try to produce evidence of his work history in the U.S.S.R. The petitioner thought this information

although it is unclear to the hearing officer whether or not SSI eligibility would provide him with an exception to the above citizenship requirements for Food Stamps, the petitioner was advised to inform the Department promptly if he receives a favorable decision for SSI.

Based on the petitioner's present status, however, it is clear that the Department applied the above Food Stamp regulations correctly to the petitioner's circumstances. Therefore, the Board is bound by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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might be contained in his F.B.I. file, which was put together at the time of his immigration.