Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-129

NOVEMBER TERM, 2020

In re Appeal of Lesley Bienvenue*	}	APPEALED FROM:
	}	
	}	Human Services Board
	}	
	}	DOCKET NO. Y-12/19-775

In the above-entitled cause, the Clerk will enter:

Petitioner appeals pro se from the Human Services Board's denial of her appeal for failure to state a claim upon which relief could be granted. We affirm.

Petitioner requested a fair hearing in December 2019. Her grievance did not stem from a specific denial, termination, or reduction of benefits. Instead, she complained about the impact of certain 3SquaresVT rules as administered by the Department for Children and Families (DCF). Following a hearing, a hearing officer recommended denying or otherwise dismissing petitioner's appeal for failure to state a claim for relief that could be granted by the Board.

The Board adopted the hearing officer's findings and recommendation. It found that petitioner had been receiving 3SquaresVT benefits for several years and she articulated the following general complaints about program policies and rules: (1) food assistance was unfairly based in part on an individual's medical needs and she objected to a "constant need" to verify her medical costs; (2) the requirement to report changes in income provided a disincentive to seeking employment; (3) the program deductions did not account for Vermont's high cost of living and the higher utility costs for those more likely to be home all day; and (4) the Board and DCF should advocate to increase the level of food assistance.

In response to these complaints, the Board found that DCF presented credible evidence of the following. 3SquaresVT recipients like petitioner, with income about 130 percent of the Federal Poverty Line, needed only report increases in income when such increases would cause their household to exceed the maximum gross income for the program. Otherwise, recipients needed only report their income when: they were recertified for eligibility typically every one to two years; they were subject to an "interim report" mailing, typically in the middle of a certification period; or they were subject to quality controls or verification requests, typically when DCF was alerted by the Department of Labor that a recipient was working. The Board further found that the availability of medical deductions benefitted someone in petitioner's situation because the deductions reduced the amount of income counted for her benefit level and DCF could average and apply a deduction for future medical expenses for costs that could be reasonably predicted.

The 3SquaresVT utility deduction was based on local energy costs and Vermont, due to heating costs, had the highest allowance of any state.

Based on these and other findings, the Board dismissed petitioner's appeal because she failed to state a claim for relief. It explained that the purpose of the 3SquaresVT program—as funded through the federal Supplemental Nutrition Assistance Program (SNAP)—was "to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households." 7 C.F.R. § 271.1(a). An individual's obligation to report changes and DCF's obligation to verify such changes was a function and requirement of federal SNAP rules. See id. § 273.10 (providing method for "[d]etermining household eligibility and benefit levels"). As indicated above, medical expenses were an allowable deduction that benefitted petitioner and other recipients. The federal government established the maximum benefit level. The Board found no evidence that DCF's application of program rules related to establishing and reporting income and expenses was inconsistent with such program rules, violated any other laws, rules, or requirements, or that DCF had been arbitrary or unreasonable in petitioner's case. Consequently, the Board denied petitioner's appeal for failing to state a claim for relief that the Board could grant. This appeal followed.

On appeal, petitioner appears to reiterate some of the same arguments that were considered and rejected by the Board. She complains about having to maintain mileage logs for travel to doctor appointments and the inclusion of medication expenses in calculating 3SquaresVT benefits. She states that there should be a set cost for providing three healthy meals per day. Petitioner also makes arguments, apparently for the first time on appeal, concerning Social Security Disability Insurance (SSDI) benefits. She describes the benefit-application process she would like to see, including what triggers a recalculation of benefits.

Title 3 V.S.A. § 3091(d) describes the Board's authority when reviewing an agency decision after a fair hearing. In relevant part it provides:

> [T]he Board may affirm, modify or reverse decisions of the Agency. . . . The Board shall consider, and shall have the authority to reverse or modify, decisions of the Agency based on rules that the Board determines to be in conflict with State or federal law. The Board shall not reverse or modify Agency decisions that are determined to be in compliance with applicable law . . . .

We find no error in the Board's decision that petitioner failed to state a claim. We agree with the Board that it cannot grant relief here. Petitioner's concerns relate to the general application of program policies and rules to her and others. Concerns related to the administration of programs such as 3SquaresVT should be directed to the legislative or executive branches. Petitioner does not contest the ultimate award in her case. There is nothing about these arguments that would compel the Board to modify or reverse the agency's decision on petitioner's award. The Board did not err in concluding that its authority under § 3091(d) did not extend to reviewing general claims about how its programs are administered. In addition, petitioner fails to show that she raised her SSDI arguments below and we therefore do not address them. See In re S.B.L., 150 Vt. 294, 297 (1988) (appellant bears burden of demonstrating how trial court erred warranting

reversal, and Supreme Court will not comb record searching for error); see also Bull v. Pinkham Eng'g Assocs., Inc., 170 Vt. 450, 459 (2000) ("Contentions not raised or fairly presented to the trial court are not preserved for appeal.").

Affirmed.

BY THE COURT:

Beth Robinson, Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice