

At the hearing in this matter (held on February 9, 1990) the petitioner offered uncontroverted testimony that she needed the car to obtain and maintain employment. The petitioner lives in an isolated area two miles from the nearest small town and over 15 miles from any commercial center. Last spring she completed her training as a student-teacher, and she has applied for full-time teaching positions at virtually every school within a 25-mile radius of her home.

In September, 1989, she began, fairly regularly, to substitute teach at an area high school. In October, however, she began to have problems with her car. She was able to continue substituting fairly steadily through November, 1989, by borrowing cars from friends and relatives. For various reasons, however, these cars are no longer available for her use. Her own car "died", and appears to be beyond reasonable repair.

When she received the inheritance, she bought a 1986 Ford Escort to replace her other car. She recently had a phone installed (she had been without a phone all along but had lined up substitute teaching jobs in advance in person because she was regularly at the school prior to November, 1989) and has been diligently trying to line up permanent and substitute teaching jobs within a reasonable distance from her home.

She is also registered for work at the Department of Employment and Training, and the job counselors there had

advised her to get a dependable car. The petitioner struck the hearing officer as extremely sincere and determined in her efforts to become employed. Based on her credible and uncontroverted testimony it is found that reliable transportation was and is absolutely necessary for the petitioner to seek, obtain, and maintain employment. It is further found that \$2,000 was a reasonable, if not minimal, amount of money to spend in order to obtain the type of reliable vehicle she would need for this purpose.

ORDER

The department's decision is reversed.

REASONS

W.A.M. § 2250.1 provides that lump-sum payments result in ineligibility for ANFC for the number of months determined by dividing the recipient's ANFC "need standard" into the amount of the lump-sum income. The regulation also provides, however:

The period of ineligibility due to a lump sum benefit may be recalculated if:

1. An event occurs which, had the family been receiving assistance, would have changed the amount paid.
2. The income received has become unavailable to the family for circumstances beyond its control. Such circumstances include, but are not limited to, death or incapacity of the principal wage earner, or the loss of shelter due to fire or flood.
3. The family incurs and pays for medical expenses which offset the lump sum income.

In several previous fair hearings the board has held that in appropriate circumstances payments from lump-sums to maintain necessary transportation render that portion of the lump-sum income "unavailable to the family for circumstances beyond its control." Fair Hearings No. 9273, 9072, 8608, and 6891. In this case the petitioner has compellingly demonstrated that reliable transportation was and is necessary if she is to seek, obtain, and maintain employment.¹ Therefore, the \$2,000 she spent on the purchase of a modest late-model used car must be considered a reasonable and necessary expense. Under the regulations, this is sufficient to establish that this amount of her lump-sum income was unavailable to the family for reasons beyond its control.² The department's decision is, therefore, reversed.

FOOTNOTES

¹The facts of this case are similar to those in Fair Hearing No. 6891, in which the board held that lump-sum income spent on car repairs were "unavailable" beyond the petitioner's control within the meaning of § 2250.1.

²It is not clear whether the petitioner's registration for work at D.E.T. was a condition of her receipt of ANFC. However, for those ANFC recipients who are required to register for work, the department's regulations state, "the primary objective . . . is the prevention of dependency and the promotion of self-reliance." W.A.M. § 2340. Given this language, it seems incongruous for the department to apply another of its regulations in a manner that penalizes the petitioner for taking reasonable and necessary steps to lessen or eliminate her family's dependency on ANFC.