



used to pay the rent that month. Since the petitioner was behind on his rent and other obligations, he promptly spent the \$661.00 ANFC check the Department had issued him.

The same day, however, the petitioner received in the mail an ANFC check for \$251.00, which was his regularly scheduled semi-monthly payment. The petitioner called his caseworker to report this and immediately returned this \$251.00 check.

Neither the petitioner nor the Department can offer any explanation, other than a computer foul-up, why the petitioner was issued the check for \$661.00. There is no question that the \$251.00 check was the correct amount of ANFC the petitioner should have received on the 15th of that month. The petitioner has received all his other ANFC checks in a timely manner and in the correct amount.

The Department admits that it was its own administrative error that caused the over-issuance of ANFC.

Both parties agree that since the petitioner returned the \$251.00 check, the total amount of the petitioner's overpayment is \$410.00 (\$661.00 - \$251.00). The petitioner feels, however, that since he was not at fault, he should not be obligated to repay this overpayment.

ORDER

The Department's decision is affirmed.

REASONS

Federal and state regulations require that all overpayments of ANFC must be recouped from a recipient's

ANFC benefits regardless of who was at fault in causing the overpayment. 45 C.F.R. § 233.20(a)(13) and W.A.M. §

2234.2.<sup>1</sup> When the petitioner's wife left the home, she was a member of the petitioner's ANFC household. The petitioner may have legal recourse to recover from her the money she took with her when she left, but the Department has no such legal recourse. There is no question that the household received \$410.00 more in ANFC in January than it was entitled to. Thus, it must be concluded that the Department's decision is in accord with the above-cited regulations regarding overpayments, and the Board is bound to affirm that decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTE

<sup>1</sup>The Department's regulations set forth two rates of recoupment--10% when the overpayment is the fault of the ANFC household and 5% when it is the Department's administrative error. The Department admits that in this case it must recoup at the lower rate.

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