

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 11,250  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the Department of Social Welfare's denial of A.N.F.C. benefits due to the receipt of lump sum income.

FINDINGS OF FACT

1. The petitioner is an S.S.I. recipient whose three children and husband were A.N.F.C. recipients in December of 1992 at which time the petitioner's husband received a Worker's Compensation award which netted them \$9,509.85.

2. The Medicaid unit at the Department of Social Welfare was aware that a medical payment had been made on the claim and notified the assistance payments unit that the petitioner's family may have received a cash settlement. Pursuant to this information, on January 22, 1992 the income maintenance specialist assigned to the petitioner's case wrote to request information on the settlement. When no response was received, she wrote again on February 4, 1992. When there continued to be no response, a notice of termination based on failure to cooperate was mailed to the petitioner. As she did not appeal that action her family's benefits were terminated at the end of February.

3. On March 11, 1992, the petitioner having exhausted the entire amount of the settlement, reapplied for A.N.F.C. benefits for her family. On March 31, 1992, the petitioner was notified that her application was denied and that she would be ineligible for benefits until August 1, 1992. She was also told that A.N.F.C. payments she had received for the month of January 1, 1992 were not due to her and would be considered an overpayment, although no specific amount was set forth in the notice. She was also notified that she could have certain amounts of her lump sum disregarded if those amounts were no longer available to her for reasons beyond her control.

4. Pursuant to the latter, the petitioner brought receipts showing how she had spent over \$11,000.00 in December 1991 and January 1992. The Department reviewed the receipts and determined that none of the expenditures met the criteria for exclusion from the lump sum. The petitioner appeals from that decision.

5. The petitioner presented receipts showing that she had spent the money as follows:

Roofing tools

|               |   |                 |
|---------------|---|-----------------|
| Dec. 30, 1991 | - | \$1,000.00      |
| Jan. 02, 1992 | - | <u>2,000.00</u> |
|               |   | \$3,000.00      |

Furniture (couches, beds, TV, mattresses, and lamps)

|               |   |              |
|---------------|---|--------------|
| Jan. 04, 1992 | - | \$4,541.25   |
| Jan. 11, 1992 | - | 2,152.50     |
| Jan. 11, 1992 | - | <u>94.50</u> |
|               |   | \$6,788.25   |

Appliances

|               |   |               |                |
|---------------|---|---------------|----------------|
| Jan. 10, 1992 | - | \$ 955.41     | (Washer/Dryer) |
| Dec. 27, 1992 | - | <u>356.95</u> | (Freezer)      |
|               |   | \$1,312.36    |                |

Junk Removal

|               |   |                 |  |
|---------------|---|-----------------|--|
| Jan. 04, 1992 | - | \$ <u>58.85</u> |  |
|               |   | 58.85           |  |

Tape Cleaner for  
Compact Disc

|               |   |                |  |
|---------------|---|----------------|--|
| Jan. 02, 1992 | - | \$ <u>7.34</u> |  |
|               |   | 7.34           |  |

Car repairs  
& Maintenance

|               |   |               |  |
|---------------|---|---------------|--|
| Jan. 10, 1992 | - | \$ 54.35      |  |
| Jan. 11, 1992 | - | <u>173.12</u> |  |
|               |   | \$ 227.47     |  |

Grand Total    \$11,394.27

6. The petitioner bought the roofing tools hoping her husband could get back into the roofing business. However, her husband has been in jail for the past two months and the tools have been put in storage at her husband's family's home. The furniture was bought to replace older furniture that she had sold off or given away in the past. Prior to her purchase, her children slept on mattresses on the floor.

The car repair was for a new alternator, battery, and distributor cap for her 1982 car. The petitioner, who lives in a large urban area, uses her car for regular day to day needs such as getting groceries, and taking children to appointments and activities.

7. The petitioner and her family currently receive Food Stamps, Medicaid and \$86.00 per month in child support

payments. The petitioner says she did not know that she would be expected to live on the proceeds of the settlement payment but also admits that she did not contact the Department at any time before or after she received the money to discuss its use even though she understood her obligation to report its receipt and received both letters requiring information from the Department. The letters she received from the Department requesting information led her to believe that they already knew about her money so she made no further effort to contact her worker.

ORDER

The Department's decision is affirmed.

REASONS

Ordinarily, when an individual receives a lump-sum payment her household becomes ineligible for ANFC for the number of months obtained by dividing the household's monthly "standard of need" (which is set by regulations--see W.A.M. § 2245.2) into the total amount of the lump-sum. W.A.M. § 2250.1. However, the same regulation allows the department to "offset" amounts against the lump-sum in the following three instances:

- 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 reasons beyond their control;
- 3) The family incurs and pays for medical expenses which offset the lump-sum income.

In Fair Hearings No. 6891, 8608, and 9072 the Board examined the requirements of the above "offset" provisions.

In those cases it held that subparagraph 2 of § 2250.1 (supra), the only one at issue both here and in the above cited Fair Hearings, established a two-part test for exclusion of income: 1) unavailability, and 2) due to circumstances beyond the control of the family. Regarding the first part of the test, the Board ruled that payments by an individual from a lump-sum to satisfy pre-existing legal obligations rendered that portion of the lump-sum "unavailable" to the individual within the meaning of § 2250.1(2) (supra). Regarding the second part of the test (i.e., whether the unavailability was "beyond the control of the family"), the Board in those Fair Hearings held the determining factor to be "whether or not it was necessary for the petitioner to incur and pay for these bills".

In the instant case, the petitioner presented no evidence that she had paid any pre-existing legal obligations with her lump sum nor that it was necessary for her to incur and pay for any of the bills she presented. The petitioner spent the bulk of her money (almost \$7,000.00) on household furniture, which expenditure, while probably a sensible and practical use of the money, was not shown by her to be "necessary" for her family's welfare. Neither was there any evidence that the tools she bought for \$3,000.00 was a "necessary" expenditure, although the

expenditure of money in the hope of becoming self-sufficient is certainly a laudable goal.

The only expenditure that even arguably could fall under the above criteria is the car repair. However, in order to justify spending her daily living money on a car, the petitioner must show that the car is necessary for the health and welfare of the family. This the petitioner did not do. Although the petitioner's car is certainly a convenience for her, she presented no evidence that she must have a car to get her groceries, run her errands or obtain medical care for herself and her children. It must therefore, be concluded that the Department properly rejected her claimed exemptions.

The petitioner, as a final argument, points to the fact that she was unaware that the Department expected her to use her money for daily living expenses before she spent all of it. That may very well be true, but the petitioner herself contributed substantially to her remaining ignorant of the facts she needed to know by failing to contact the Department regarding her windfall as she was requested to do.

The petitioner's disqualification period will end at the end of this month. She is again reminded that she must reapply at that time to be found eligible for future benefits.

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