

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,779
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying his application for ANFC benefits. The issue is whether the Department should be estopped from enforcing the lump sum disqualification regulations against the petitioner.

FINDINGS OF FACT

1. The petitioner and his family received ANFC benefits of \$539.00 per month through the end of February of 1992 when the grant was closed due to information the Department received that the family had been paid \$75,984.74 in a lump sum representing the proceeds of the sale of a house which they inherited from the petitioner's mother-in-law.

2. Two notices, each dated February 19, 1992, were mailed to the petitioner to notify him of the closure. The first was a computer generated notice which told him that his ANFC grant, Food Stamps, and Medicaid would be closed because "your income is more than the Department allows for a family of your size and expenses." That notice also contained some information on how he could become re-eligible for Medicaid and was accompanied by a benefit calculation sheet showing that the family had \$73,989.74 more than the \$2,000.00

resource limit for ANFC.¹ The second notice was a hand filled in form from the petitioner's worker informing the family that they would not be eligible for ANFC until March 1, 1999 based on the receipt of the \$75,984.74. They were also notified that they were overpaid for the month of February since the disqualification should have started in that month. The notice also advised them of certain circumstances under which the period of disqualification could change. A copy of each of those notices is attached hereto and incorporated by reference as Exhibits One and Two.

3. The petitioner claims not to have received either of those notices. He also testified, however, that he called on February 21, 1992 to complain about the closure of the family's Medicaid benefits. The Department's records show that the petitioner did call on the afternoon of February 20 and the morning of February 21, 1992. His call was returned on February 21 and the record notes that the petitioner complained that he only had ten days to get medical insurance to replace the Medicaid which he particularly needed because of a child who used a lot of medication and a family member who needed surgery. The petitioner was told that he could reapply for Medicaid once his resources were spent down. In spite of the petitioner's claims to the contrary, the evidence

¹ No explanation was offered for the \$5.00 discrepancy between the lump sum amount and the over-resource amount once the \$2,000.00 was deducted.

indicates that it is highly likely that the petitioner did receive the two notices which were mailed February 19 as his phone calls were a direct response to information contained in the notices.

4. On March 12, 1992, the petitioner and his wife talked to their worker about their Medicaid eligibility, telling her that they were spending the lump sum by buying a house in another district and starting a chicken brooding business, with the purchase of 700 chicks. The petitioners also were breeding pheasants and exotic birds as well as dogs. The worker reminded the petitioners that while spending the lump sum might make them re-eligible for Medicaid, it would not help them with the ANFC disqualification. At that time, the petitioners were not concerned because they still had a little money left over from the lump sum to live on until they got their business going. They expected to support themselves in the future from the profits of their business. The petitioner did not indicate at that time or any other time to his worker that he did not understand the disqualification period. He did ask what would happen if he should run out of money. The worker told him that he could "reapply" for benefits.

5. In March or April of 1992, the petitioner bought 900 chicks which perished almost immediately during a power failure in the brooding barn. Later, the petitioner bought 60 or so adult chickens which have survived. By October of 1992, the petitioner had no money left and no regular income from

the chicken business. In that month he reapplied for ANFC at a different district office with a new worker.

6. The new worker was unaware of the lump sum disqualification and was not told of it by the petitioner. She granted ANFC for the month of October 1992 with a stipulation that the family reimburse the state when they sold their former home (one owned before they got the lump sum and which they left to start the chicken operation) which was at that time up for sale. The petitioners continued to be paid until January 15, 1993 when the lump sum disqualification was discovered by the new district office. On January 27, 1993, the petitioner was notified that his application would be denied beginning in January because his family was "in a lump sum disqualification period through March 1999."

7. The petitioner called the new worker to protest the disqualification period. She advised him to bring in receipts as to how he had spent the lump sum and after reviewing the receipts and other information, determined that the family had actually received only \$71,861.52 in the lump sum and that \$2,992.15 should be excluded as money no longer available to the family for reasons beyond its control. These amounts were deducted from the actual lump sum and a further adjustment of \$11,205.00 was made for the amount of time the family had already been disqualified. Added to that was the family's income for that month which consisted of payments made to them on a mortgage note they held for the person who had bought

their old home. The petitioner did not dispute any of the figures used by the Department in this recalculation.

8. The petitioner was sent a new notice on February 11, 1993, advising him that he would not be eligible again until December 1, 1996 due to the lump sum income. This figure was arrived at by dividing the countable lump sum of \$57,994.75 by the family's standard of need, \$1,251.00 per month. The petitioner appeals that disqualification, claiming that the Department misled him as to his eligibility for ANFC and caused him to thereby spend all of his lump sum instead of saving it. (The petitioner was deemed to have been overpaid from October of 1992 to January of 1993, and has already repaid that amount.)

ORDER

The Department's decision is affirmed.

REASONS

The petitioner in this matter does not allege that the Department's calculation of the disqualification period is erroneous. Rather, he argues that the Department should not be allowed to impose the disqualification period on him at all because he was misled by his worker's statements into believing that he would again be eligible for ANFC when his money ran out.

The Board is empowered by 3 V.S.A. § 3091 to estop the

Department from enforcing its rules if the facts show that the four traditional elements of estoppel are met. Stevens vs. Department of Social Welfare, Docket No. 91-227, (December 11, 1992). Those elements are as follows:

1. The party to be estopped must know the facts;
2. The party to be estopped must intend that its conduct shall be acted upon or the acts must be such that the party asserting the estoppel has a right to believe it is so intended;
3. The party asserting estoppel must be ignorant of the true facts; and
4. The party asserting estoppel must detrimentally rely on the conduct of the party to be estopped.

Stevens, supra, at page 15, quoting Burlington Fire Fighter's Ass'n v. City of Burlington, 149 Vt. 293, 299, 543 A.2d 686, 690-91 (1988).

Applying the above criteria to the current case, it is clear that the worker understood the facts of the petitioner's case well and also knew the requirements of the pertinent regulations. As an agent of the Department, information she gives to the petitioner as an applicant or recipient of benefits as to eligibility requirements could reasonably and rightfully be relied on by the petitioner.

However, it cannot be found that the petitioner was ignorant of the true facts, and therein the petitioner's case is fatally flawed. The petitioner received several written notices advising him of his period of disqualification. That penalty was verbally reinforced and explained by the caseworker on more than one occasion. In fact, the worker

consistently warned the petitioner that spending his lump sum would not insure that he would be found eligible again for ANFC and that he was expected under the regulations to use that money to provide for his needs over the next few years. If the petitioner did not understand that, the fault lies in his ability to comprehend the information, not the accuracy and completeness of the caseworker's communication. At no time did the petitioner indicate to the caseworker that he did not understand the meaning of the disqualification period.

The petitioner focuses on a statement made by the caseworker in response to his question as to what he should do if he did run out of money. Her response that he should "reapply" for ANFC has apparently been misinterpreted by the petitioner as an assertion that he would be "eligible" if he ran out of money. However, given the abundance of written and oral information already given to the petitioner regarding the mandatory disqualification period, it cannot be found that the caseworker's statement could have been reasonably so interpreted. The word "reapply" means only that the petitioner can fill out forms and be interviewed regarding his current situation. It does not mean or imply that he will be found eligible. The caseworker was acting in a responsible and correct manner when she advised the petitioner to "reapply" instead of telling him that he would probably be ineligible. A statement on eligibility at that time would have been an inappropriate and perhaps incorrect guess on her

part which could have discouraged the petitioner from reapplying and having his situation formally assessed.

As it cannot be concluded that the petitioner has shown the four essential elements of estoppel, it must be concluded that the Department is properly applying the lump sum disqualification principle in the petitioner's case.

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