

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,840
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare not to issue an ANFC check to the petitioner to replace an earlier check that the petitioner had neglected to cash within the time before its expiration date.

FINDINGS OF FACT

The facts are not in dispute. In October, 1991, the petitioner received her regular semi-monthly ANFC check for \$240.00. The check was dated October 12, 1991, and included a printed warning that it was "void after 60 days".

At the time, and continuing to some extent to the present, the petitioner was experiencing periods of memory loss reportedly caused by a head injury she suffered in a car accident in 1989. As a result, she not only misplaced the check, but forgot all about it. She did not see it again until February, 1993, when she discovered it with some other papers she was going through.

Upon finding it the petitioner took the check to the Department and asked for a replacement, since that one had long since expired. The Department has refused to issue a replacement, maintaining that it can only issue ANFC checks to meet "current needs", and that the petitioner has continued to

receive (and cash) ANFC checks on a regular basis since the time of the issuance of the check in question.

ORDER

The Department's decision is reversed.

REASONS

There is no question that the petitioner was eligible for ANFC during the period covered by the misplaced check. The Department maintains that there are no provisions in the state ANFC regulations covering replacement of lost, found, and expired checks.¹ However, 33 V.S.A. §1103(a) includes the provision that: "Aid (ANFC) shall be given for the benefit of a dependent child to the relative with whom the child is living unless otherwise provided". Moreover, W.A.M. § 2232 provides, in pertinent part:

Money grants shall be paid by check, redeemable at par when properly endorsed in ink (by signature or by mark witnessed by one person), issued to the designated payee. Checks are valid until cashed or canceled through "stop payment" request or when outstanding for two years or more.

¹A federal regulation cited by the Department, 45 C.F.R. § 201.67 clearly allows, apparently without any time limit, federal reimbursement (via submission of a "new claim for FFP [Federal Financial Participation]") for belatedly cashed checks. Id. § 201.67(c)(2). Another federal regulation cited by the Department (45 C.F.R. § 205.35) pertains only to checks reported missing or stolen, and is inapplicable to the issue herein.

The petitioner in this case found the lost check sixteen months after it was issued and brought it to the Department. Under the above statute and regulation the Department was clearly obligated to issue her a valid check at that time. Therefore, the Department's decision is reversed.

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