

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,946

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare deducting from a retroactive payment of SSI to the petitioner an amount equal to the general assistance (GA) payments it made to the petitioner while his application for SSI was pending. The issue is whether the "Recovery of Assistance Agreement" the Department required the petitioner to execute as a condition of receiving GA was a valid and enforceable agreement under the pertinent statutes and regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner applied for SSI in March, 1993. In October, 1993, and again in April, 1994, the petitioner signed a "Recovery of Assistance Agreement" whereby he agreed that his initial SSI check would be sent to the Department, which would deduct from it the total amount of GA the Department had paid to the petitioner during the period for which he was retroactively found eligible for SSI.

The petitioner was found eligible for SSI in April, 1994. He does not dispute that he was paid \$991.15 in GA by the Department during the period in which he was found retroactively eligible for SSI, and that the Department withheld this amount from his initial SSI check in accordance with the express terms of the recovery agreements he had previously signed. The Department does not dispute that the petitioner's eligibility for GA during this time was contingent upon his signing of those agreements.

ORDER

The Department's decision is affirmed.

REASONS

The petitioner does not dispute that the Department's action in this case was consistent with its regulations regarding the recovery of GA from retroactive SSI payments. See Welfare Assistance Manual (W.A.M.) § 2600 D. The petitioner argues, however, that this regulation is invalid in that it is

unsupported by the federal SSI regulations and the state GA statutes.

The petitioner is correct that the federal regulations do not require states to enter into "interim assistance" agreements with the federal agency (the Social Security Administration) whereby recovery of assistance provided by a state can be achieved through a withholding of any SSI subsequently paid to a recipient of state assistance for the same time period. See 20 C.F.R. § 416.1901 et seq. Clearly, however, those regulations enable states like Vermont, which choose to enter into such an arrangement with the federal agency, to do so.

33 V.S.A. § 2103 empowers the Commissioner of the Department of Social Welfare to "establish...eligibility standards" for GA. W.A.M. § 2600 D is entirely consistent with the Department's authority under the above statute and with the federal regulations, supra, enabling states to enter into recovery of assistance agreements.

33 V.S.A. § 2113, cited by the petitioner, provides:

Whenever a person, who has received general assistance from the department, owns or thereafter acquires real or personal property or an interest therein or becomes employed, the department on behalf of the state of Vermont may recover on this statute against him the amount the department has expended for general assistance furnished him or his family. If the person is deceased, the amount expended by the department shall be allowed as a claim against his estate as a debt due the state. All statutory exemptions shall apply in the civil action. Statutes of limitations shall not be a defense or bar a debt due the state.

It cannot be concluded that the above statute either explicitly or implicitly creates an exclusive remedy, as argued by the petitioner. It simply does not pertain to the procedure at issue herein; and it cannot be read as preventing the Department from enacting and enforcing the provisions of §2600 D, supra.

Inasmuch as the Department's action in this case is fully in accord with the applicable law, it must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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