

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,452

)

Appeal of )

)

INTRODUCTION

The petitioners appeal the decisions by the Department of Social Welfare not to escrow their 1995 property taxes through vendor payments and not to reimburse them \$170.00 in ANFC the petitioners allege was "withheld" by the Department from their vendored rent payments in 1989. The issue is whether the Department is required by the regulations to take either action.

FINDINGS OF FACT

The petitioners and their children have been receiving ANFC benefits for many years. In 1989 the Department placed the petitioners on vendor payments due to "money mismanagement" when the petitioners fell behind on their property taxes and on payments on a "land contract" for the property on which their home is situated.

Since that time, and until recently, the Department paid each month's land mortgage payment in full out of the ANFC check the petitioners received on the first of each month. At some point in time the Department also began "escrowing" from the petitioners' monthly ANFC checks 1/12 of the petitioners' yearly property taxes. At the time the Department began escrowing the property taxes the petitioners were in arrears on those taxes.

In January, 1995, following the assignment of a new caseworker to the petitioners, the Department ceased escrowing the petitioners' property taxes because those taxes were no longer in arrears.<sup>(1)</sup> Instead, the Department began paying the amount it had been escrowing directly to the petitioners. The petitioners argue that it is easier for them to maintain their finances if the Department were to continue escrowing their annual property tax payments.

The petitioners also claim that when the Department first placed them on vendor payments for their mortgage in 1989 the Department "withheld" a half-month's mortgage payment of \$170.00. The petitioners demand that the Department now pay them this amount in addition to their ongoing monthly

ANFC. The Department maintains that it does not keep records of individual ANFC payments going back to 1989, and that it has no way of verifying whether the petitioners did not receive their full ANFC grant in any month back in 1989. The petitioners only "proof" of this underpayment is handwritten records of their mortgage payments that show a \$170.00 "arrearage" that has been carried through since 1989. It is not clear from the petitioners' records, however, whether the arrearage occurred before or after the Department placed the petitioners on vendor status for their mortgage payments.

### ORDER

The Department's decisions is affirmed.

### REASONS

The regulations regarding ANFC "Certified Vendor Payments" (CVP) include the following provisions:

The CVP system provides protective payments until a protective payee is appointed. It is used in cases of money mismanagement and sanction. The Eligibility Specialist manages the grant by making payments on behalf of the family by vendor authorizations and by issuing checks as appropriate to pay bills and obtain basic needs.

The Eligibility Specialist cannot spend more than the authorized grant amount, but can spend less and carry unspent balance forward to a future month as necessary to budget for one-time expenses such as property taxes, mortgage insurance and one-time resolution of a landlord tenant dispute. . .

The Department represents that its policy is not to escrow property taxes through CVP unless those taxes are in arrears. This is because there is no continuing evidence of "money mismanagement" when taxes are, in fact, paid up, and because it is administratively inconvenient to escrow portions of individual ANFC grants.

The above regulations certainly do not require the Department to escrow property taxes simply when, as here, the household requests it as a matter of convenience. Neither, however, do the regulations specifically prevent the Department from escrowing taxes when, as here, there is at least a history of financial mismanagement and the household requests it. While the hearing officer might agree that the "inconvenience" to the household if taxes are not escrowed might outweigh the inconvenience to the Department if they are, as a matter of law the Board does not have the authority to intrude on the Department's discretion in this regard. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19. Therefore, the Department's decision not to continue escrowing the petitioners property taxes must be affirmed.

As to the alleged "underpayment" of \$170.00 in ANFC that supposedly occurred in 1989, W.A.M. § 2234.1 provides as follows:

Department errors which resulted in underpayment of assistance shall be promptly corrected retroactively under the following conditions:

...

2. Retroactive corrected payment shall be authorized only for the 12 months preceding the month in

which the underpayment is discovered.

...

Even if it could be found that the petitioners' were in fact underpaid ANFC in 1989, their request that the Department now pay them this money is far out of time. See also Fair Hearing Rule No. 1. Therefore, the Department's denial of the petitioners request for payment of \$170.00 in ANFC dating back to 1989 must also be affirmed.

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1. In January, 1995, the Department also changed its practice of vendoring the petitioners' entire mortgage payment out of the ANFC check the petitioners received on the first of each month. Instead, the Department began making 60% of the payment out of the first of the month ANFC payment, and 40% out of the ANFC payment on the fifteenth of the month. When the petitioners took issue with this practice, the Department agreed to resume paying the entire mortgage payment out of the petitioners' first ANFC check each month.