

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,573

)

Appeal of )

)

INTRODUCTION

The petitioner appeals several aspects of the manner in which the Office of Child Support (OCS) has handled the collection of her child support. A hearing in the matter was held on July 26, 1995, following an Order by the Board (dated June 9, 1995) denying the petitioner's motion to recuse the hearing officer.

DISCUSSION

There is little, if any, dispute over the facts in this matter. At the hearing the petitioner identified three aspects of OCS's handling of her case with which she disagrees.

The first concerns whether OCS has investigated and pursued all outstanding arrearages that may be owed by the absent parent. There have been three court orders of support entered in the petitioner's case, all of them in Massachusetts. The first order was dated December 12, 1986, and ordered child support payments of \$65.00 a week to commence. The second order was dated August 30, 1988, and raised the weekly child support obligation to \$230.00. The third order, dated April 9, 1993, raised the payments to \$251.00 a week.<sup>(1)</sup> The petitioner believes that there may have been some delay between the time the orders were entered and the time the absent parent actually began paying the ordered amounts. The petitioner wants OCS to "audit" the absent parent's payment history to ensure that there are no such arrearages.

OCS responds that as of June 30, 1995, its records verify that the absent parent owed no arrearages on any aspect of the most recent child support order of April 9, 1993. Moreover, OCS points out that it is unlikely that there are arrearages owed under the former orders because none of the orders mention any arrearages, which presumably would have been known to the court at the time it entered each order. At any rate, OCS agreed at the hearing to forward to the Massachusetts child support agency any request by the petitioner for an accounting of the absent parent's payment history back to the date of the first order (12/12/86), and, if there are in fact any alleged arrearages, to investigate the petitioner's legal options, if any, to collect them. Therefore, there does not appear to be any dispute remaining between the parties on this issue.

The second aspect of the petitioner's grievance concerns the absent parent's responsibility to provide dental coverage for the petitioner's daughter. The petitioner maintains that the most recent court order mistakenly omitted specific reference to dental coverage, although it does provide that the absent parent maintain health insurance. The petitioner admits, however, that the absent parent is, in fact, maintaining dental coverage. OCS responds that it has been informed by the Massachusetts child support agency that it considers the existing child support order to require the absent parent to maintain dental coverage, and that the absent parent has agreed with that agency to maintain such coverage. Thus, the only issue on this aspect of the petitioner's grievance appears to be whether OCS should be required to pursue an interstate claim to amend the existing child support order to specifically include dental coverage despite the fact that the absent parent apparently already considers himself bound to maintain this coverage.

The Board concludes that, at least for the time being, the issue is moot. If, in the future, the absent parent terminates dental coverage, the petitioner is free to request that appropriate action be taken to reinstate this coverage.

The third aspect of the petitioner's grievance concerns the method by which OCS credits payments made by the absent parent as either current child support or arrearages. OCS policy is to credit any payment received from the absent parent (via the Massachusetts agency) to first satisfy the ongoing support obligation, and, only if it receives payments in excess of the ongoing obligation, to credit any arrearages owed by the absent parent. The petitioner argues that payments received should first be credited toward any outstanding arrearages.

The Board also considers this aspect of the petitioner's grievance to be moot. As noted above, as of June 30, 1995, the absent parent has no arrearage on any aspect of his support obligation. Even if he did, however, it would make no discernable difference to the petitioner, either in terms of the amount of money she receives or her enforcement remedies, how OCS credits the absent parent's payments. The petitioner is not a recipient of ANFC. Therefore, all the money collected by OCS is forwarded to the petitioner, regardless of which account (current support or arrearages) OCS credits it to. Also, regardless of whether the absent parent is deemed to be in arrears on either current support or past arrearage judgements (or both), the petitioner has the same collection remedies available to her (e.g., tax offsets, contempt proceedings, etc.). As long as all the money collected from the absent parent is forwarded to the petitioner the Board fails to see how the petitioner can be at all adversely affected by the method by which OCS credits the absent parent's payments.<sup>(2)</sup>

### ORDER

Inasmuch as the petitioner's grievances in this matter appear to be either settled or moot, OCS's decisions are affirmed.

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1. The third order also included a judgement against the absent parent for \$1868.00 in medical expenses incurred by the petitioner due to the absent parent's failure to maintain health insurance for the petitioner's daughter. The petitioner later obtained a separate judgement for an additional \$510.00 as reimbursement for further medical expenses.
2. For the record, however, the federal regulations cited by the petitioner and OCS (45 C.F.R. §§ 302.51

and 303.102) both appear to support OCS's method of crediting the absent parent's payments.