

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,639

)

Appeal of )

)

INTRODUCTION

The petitioner appeals to the Board for an Order enjoining the Department of Social Welfare from using his social security number as part of a display on the address of the envelopes in which the Department mails the petitioner his monthly ANFC and food stamp checks and on the petitioner's "AIM card" issued by the Department that the petitioner presents to medicaid providers. The issue is whether the Department's use of the petitioner's social security number in these manners violates the petitioner's rights to confidentiality and privacy.

DISCUSSION

The petitioner is a recipient of ANFC, food stamps, and medicaid. The Department (as it does with nearly all other recipients) mails the petitioner his ANFC check and his food stamps in envelopes that contain, in addition to the petitioner's name and address, a code of either twenty-one (for food stamps) or twenty-four (for ANFC) digits that includes the petitioner's (nine digit) social security number.<sup>(1)</sup> The Department has also issued the petitioner a standard "AIM card" that is presented by recipients to medical providers in order to obtain medicaid coverage. The information on these cards includes the recipient's social security number.

The petitioner maintains that the Department's use of his social security number in the above manners violates federal and state statutes and regulations insuring his right to privacy and confidentiality. As best the hearing officer can determine, the petitioner believes that the appearance of his social security number in this manner constitutes its improper "dissemination" to "the public" and to "unauthorized personnel".

The Department acknowledges that federal and state statutes and regulations requires it to safeguard personal and financial information about recipients, and prohibits the publication, use, and disclosure of this information for any purposes "not connected with the administration of programs . . . or contrary to regulations . . ." See, e.g., 45 C.F.R. § 205.50 and 33 V.S.A. § 111(b). The Department concedes that the social security numbers of recipients are included in the type of confidential information protected by the pertinent statutes and regulations.

The Department maintains, however, that merely including a recipient's social security number on a code that appears on envelopes addressed to the recipient and sent through the U.S. mail does not constitute a divulging or dissemination of this information in violation of the statutes and regulations and the recipient's right to privacy. The Department similarly maintains that simply including social security numbers on medicaid AIM cards issued to recipients is not violative of these provisions.

The Department correctly points out that envelopes containing recipients' benefits checks are not ordinarily accessible to any other individuals except authorized Department personnel and employees of the U.S. Postal Service, and that the latter individuals are prohibited by law from using or disclosing any confidential information obtained from items placed in the mail. The petitioner has not identified any other individual who ordinarily might lawfully gain access to this information. It appears that his concern is with individuals who might obtain this information inadvertently or unlawfully, and then unlawfully use it against him. He has not alleged or demonstrated, however, that the possibility that his social security number can be unlawfully obtained and used as a result of it appearing in a code on envelopes sent through the mail constitutes an unlawful divulging or dissemination of confidential information on the part of the Department. Putting the social security numbers of addressees on envelopes (encoded or otherwise) is a common practice for both government and private entities. The petitioner has cited no law or legal opinion stating or intimating that this practice is violative of individual rights to privacy and confidentiality.<sup>(2)</sup>

Similarly, with his social security number appearing on his medicaid card the petitioner's primary concern appears to be that some unlawful access might be gained to this information. The Department again correctly points out that medicaid providers are required by law to protect the confidentiality of medicaid recipients. The fact that the petitioner's social security number appears on his medicaid card is no different in this regard than its appearance on any other document (including his social security card, itself) that the petitioner may have occasion to be required to show to others. The petitioner has not alleged that any person or entity other than himself and his medical providers would ordinarily have access to his medicaid card. Therefore, it cannot be concluded that by including his social security number on this card the Department has violated the petitioner's right to confidentiality and privacy.<sup>(3)</sup>

The Department has presented ample evidence that its use of recipients' social security numbers in the above manners is reasonably and directly connected to the administration of the programs involved. The petitioner's complaint appears to be based solely on his fear that unauthorized individuals might unlawfully obtain this information and use it against him.<sup>(4)</sup> The petitioner has not demonstrated, however, that the Department's uses of his social security number as described above constitute a violation of his right to confidentiality and privacy either as defined in the federal and state statutes and regulations or as a matter of constitutional interpretation. Inasmuch as the Department's practice and policy in this regard has not been shown to be in any way contrary to law, the Board is bound to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

### ORDER

The Department's decision is affirmed.

1. See attachments to Department's Memorandum of Law.
2. Recipients' names and addresses also appear on these envelopes. The petitioner has not demonstrated,

and the hearing officer is unable to discern, any legal distinction between names, addresses, or social security numbers in protecting the "confidentiality" of those recipients. The petitioner has also not elucidated why the appearance of one's social security number on an envelope sent by the Vermont Department of Social Welfare is any more a violation of one's right to privacy than its appearance on envelopes commonly sent by other government agencies (e.g., IRS) or private entities (e.g., insurance companies).

3. The petitioner's argument carried to its extreme (and ad absurdum) would appear to be that any person or entity that uses an individual's social security number in a manner that might allow others to unlawfully obtain and use it has committed a violation of the privacy rights of that individual.

4. This is not a case in which the petitioner objects to the assignment of a social security number to him based on certain religious beliefs. See Fair Hearing No. 13,123.