

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,704

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Appeal of)

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INTRODUCTION

The petitioner appeals both a decision of the Department of Social Welfare finding that she is disqualified from receiving ANFC for a period of time due to the receipt of lump sum benefits and the Department's refusal to reduce the amount of her lump sum based on receipts for purchases she presented to them.

FINDINGS OF FACT

1. The petitioner and her child are ANFC recipients and have been for over eleven years. They currently receive a grant in the amount of \$472 per month. On October 16, 1996, the petitioner received a \$24,904 lump sum settlement on an insurance claim regarding an automobile accident which occurred in July of 1994. The petitioner did not discuss her potential receipt of this money with the Department although she was aware that she was required to report it within ten days.
2. The Department first learned of the lump sum through an anonymous call and ran a bank search under the petitioner's name. When they found a large sum in an account, the petitioner was sent a letter asking for verification of the amount.
3. The petitioner reported the lump sum on October 25, 1996, after she received the request from the Department but before the ten day reporting deadline had expired. Because the petitioner had received two lump sums in the past (an unspecified sum in February of 1995 and \$9,000 in October of 1995), she knew that she could submit receipts for a reduction of the lump sum amount and she enclosed those as well with her verification.
4. On November 6, 1996, the Department mailed the petitioner a computer generated letter thanking her for reporting the lump sum and asking for verification and proof of expenses she had paid with the sum in order to determine her eligibility for continued benefits. The petitioner called DSW in response to this letter on November 12 and talked to her worker's supervisor telling him that she had already provided this information. Her worker called her November 13 or 14 to discuss the receipts she had left and the

fact that the money had all been spent. The worker reminded her that she would have to live on that money and asked what she would do. The petitioner responded that someone in the household had Social Security income.

5. The receipts submitted by the petitioner on October 25, 1996, showed that she had already spent the bulk of the settlement by that time. The receipts submitted were for the following items:

Oct 5 Repair of garage (leaky roof) and \$1,616

building wood shed to shelter logs

Sept 20 Paving driveway and putting up \$1,004

clothesline

Sept 4 Home roof repair and trailer skirting \$2,105

Oct 23 Rebuild porch, inside and out \$2,970

Oct 23 Repayment of loan to sister-in- \$5,000

law used in addition to loan below

for moving expenses, new stove,

furniture, appraisal, new flooring

and current property taxes

(No promissory note or payments-
oral agreement)

Oct 21 Repayment of loan to friend used \$5,000

in addition to loan above for the

same items (No promissory note or
payments-oral agreement)

Oct 16 Car and truck insurance - current \$80.50

Oct 16 Prepayment of principal on mortgage \$5,000

Oct 16 Pay off on balance of truck loan \$1,013.41

(No loan arrearage)

Oct 16 Pay off of loan used to close on \$860.18

trailer (not overdue)

Oct 16 Payment to fuel company to inspect \$129.95

and repair broken furnace

Sept 30 Pumping of septic tank \$125.00

TOTAL \$24,779.04

6. After reviewing the receipts, the Department determined to deduct only \$5,075 from the total as unavailable to her for circumstances beyond her control. That amount represented the \$2,970 for rebuilding the porch and the \$2,105 for the roof and trailer skirting. All other receipts were rejected as not allowable under the regulations.

7. On November 20, 1996, the Department mailed the petitioner a notice of decision informing her that her grant would close as of December 1, 1996, and that she would not be eligible again for ANFC until July 1, 1998 at which time \$614.04 would be counted toward her eligibility. She was also notified that she had been overpaid \$942 for the months of October and November of 1996. The above was calculated by using a \$915 total budget (\$565 basic needs for two people and a \$350 shelter allowance) for her needs each month and dividing it into the countable lump sum of \$19,829.04, for a twenty-one month disqualification from October of 1996 through June of 1998.

8. The petitioner admits that she knew that the lump sum would affect her ANFC benefits based on her past experience but she did not ask for advice about spending it from the Department before she did so. (The petitioner is also a Food Stamp recipient. In that program she was only disqualified for the month of receipt, October of 1996, because all of the money was gone by November 1.) Her plan was to pay off everyone she owed and deal with what happened thereafter. However, she has appealed because she did not expect such a long disqualification as her last lump sum disqualification in 1995 lasted only four months.

ORDER

The Department's decision to terminate petitioner's ANFC grant is affirmed but the amount of the countable lump sum payment is modified to show a further deduction of \$254.95 which will not change the twenty-one month period of ineligibility but which will reduce the amount attributable to the petitioner upon her month of renewed eligibility (July of 1998) to \$359.09.

REASONS

Welfare Assistance Manual (W.A.M.) § 2250.1 includes the following provisions:

Lump sum payments which are not excluded should be added together with all other non-ANFC income received by the assistance group during the month. When the total less applicable disregards exceeds the standard of need for that family, the family will be ineligible for ANFC for the number of full months derived by dividing this total income by the need standard applicable to the family. Any remaining income will be applied to the first month of eligibility after the disqualification period.

The period of ineligibility due to a lump sum benefit may be recalculated if:

1. An event occurs which, had the family been receiving assistance, would have changed the amount paid.
2. The income received has become unavailable to the family for circumstances beyond its control. Such circumstances are limited to the following unless the Commissioner of Social Welfare or his or her designee determines that the recipient's circumstances are substantially similar to those described below:
 - a. death or incapacity of the principal wage earner.
 - b. loss of shelter due to fire or flood.
 - c. repairs to owner-occupied homes which are essential to the health and safety of the family.
 - d. repair or replacement of essential, major household appliances.
 - e. repair or purchase of one motor vehicle per ANFC assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.
 - f. payments attributable to current monthly housing expenses (as defined in WAM 2245.3) which are in excess of the maximum monthly ANFC housing allowance. Advance payments (i.e. payments for expenses which will be incurred after the period of ineligibility has ended) toward excess monthly housing expenses are not allowed.
 - g. payment of expenses which meet the following criteria:
 - (1) The bills were overdue as of the date the lump sum income was received.
 - (2) The bills were the legal liability of the client or other member of the assistance group.
 - (3) The client provides documentation that the lump sum income was used to pay the bills.

Eligible expenses under "g" above are as follows and are restricted to those of the primary residence and would include any late charges described in payment agreements or allowed by Public Service Board rules.

- a. overdue rent (including lot rent)

- b. overdue mortgage payments (principal and
(interest)
- c. overdue property taxes
- d. overdue homeowner's insurance
- e. overdue heating bills
- f. overdue utility bills (e.g. electricity, gas, water or sewage)

Other eligible expenses:

- g. overdue telephone bills (basic monthly charge, applicable taxes, plus \$5 per month in toll charges)
- h. overdue child care expenses necessary for a member of the assistance group to maintain employment, with the following limitation. If the overdue expenses were incurred when the individual was receiving ANFC, only the unsubsidized amounts attributable to employment-related child care are considered eligible expenses.
- i. overdue expenses for one motor vehicle per ANFC assistance group, essential for employment, education, training or other day-to-day living necessities. Expenses may include overdue bills for repairs, purchase and use tax, inspection fee, insurance, and registration fees, but not day-to-day operating expenses.

3. The family incurs and pays for medical expenses which offset the lump sum income.

The original disqualification period was calculated using an accurate need figure of \$915 per month. See Procedures Manual §§ 2245.2 and 22A5.3. The regulation above requires that the assistance group be disqualified if the lump sum figure exceeds that need figure amount and for as many months thereafter as indicated by dividing the entire amount of the lump sum by the need figure. The Department divided the lump sum amount which it counted (\$19,829.04) by that need figure and obtained twenty-one months. It notified the petitioner that the \$614.04 remainder would be applied to her eligibility in the twenty-second month. The decision of the Department is correct unless it was mistaken in its determination as to which receipts submitted by the petitioner did not represent non-ordinary expenses over which the petitioner had no control.

The Department counted repair to the petitioner's home roof and skirting and the rebuilding of her porch as essential to the health and safety of the family. However, it did not consider driveway paving, the clothesline construction and the woodshed as essential to health and safety. It cannot be said that the Department was incorrect in this assessment. The Department's refusal to count the prepaid mortgage, truck and home closing loans was also correct because none of these loans was overdue. Under prior Board precedent, oral agreements to repay loans to friends or relatives are not deducted either. See Fair Hearing No. 13,847.

Remaining at issue are the insurance payment on the truck, the pump out of the septic system and the

repair to the furnace. No evidence was presented at hearing as to whether the petitioner's automobile is essential for employment, education, training or day-to-day living. Therefore, it cannot be found at this time that her truck insurance payment is a deductible expense. If she can bring evidence as to the essential nature of the vehicle into the district office, an allowance can and should be made by the Department for the insurance payment. It is clear, however, that repair of the furnace and pumping out the septic system are essential to the health and safety of the family and as such those amounts, \$129.95 and \$125, respectively, should be deducted from the lump sum. Those amounts will probably not change the period of disqualification for the petitioner but will reduce the amount attributed to her in her month of renewed eligibility (July of 1998) from \$614.04 to \$359.09. Otherwise the decision of the Department is in accordance with the regulations and must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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