

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,923

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Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare granting his application for ANFC effective 30 days from the date he applied. The issue is whether the Department should have made its decision more promptly.

FINDINGS OF FACT

The facts are not in dispute. The petitioner and his wife, who was pregnant, applied for ANFC on January 15, 1997. On the application the petitioner alleged that both he and his wife were incapacitated. On the day of the application the Department provided the petitioner with a notice stating that in order to process the application he would have to provide the Department with statements from his doctor that he was unable to work, and with a shelter expense statement from his landlord. The notice also informed the petitioner that pregnancy was not normally considered an incapacity. The notice also scheduled an interview for the petitioner with his worker on January 20.

On January 20, the petitioner met with the worker, and informed her that his wife had other medical reasons besides her pregnancy to claim incapacity. The worker told the petitioner, and provided him with another written notice advising him, that in order for the Department to process the application within 30 days it would need a form from the petitioner's wife's doctor explaining how long she would be unable to work. The notice also restated the need for a shelter expense statement from the petitioner's landlord.

On January 28, the worker sent the petitioner another notice stating that the Department had not yet received statements from either the petitioner's or his wife's doctor or the shelter expense statement.

On January 31, the Department's medical consultant who makes incapacity determinations sent a letter to the petitioner's doctor advising him that he had not fully completed the form he had submitted for the petitioner. The letter indicates that the petitioner and his caseworker were copied, although the petitioner does not recall receiving a copy of this letter.

On February 12, the worker sent the petitioner another notice informing him that the Department would be unable to make a decision in his case within 30 days because it had still not received a medical

decision on the petitioner's incapacity and had not received a verification of the petitioner's shelter costs.

That same day the petitioner's wife obtained another shelter expense form from the worker to give to the landlord. The landlord did not return the form to the Department until February 27, 1997.

On or about February 27, the Department granted the petitioner's application for ANFC. The statement from the petitioner's doctor had apparently indicated that the petitioner was only incapacitated from January 2 through February 18, 1997, and the Department apparently never received medical verification that the petitioner's wife was incapacitated. However, the Department found the petitioner eligible for ANFC retroactive to February 13, 1997--30 days from the date of his application--based on the petitioner's unemployment.

The petitioner does not dispute the period of his incapacity that was determined on the basis of his doctor's statements. He maintains, however, that the Department should have kept him better informed as to the difficulties it was having getting information from his and his wife's doctors so that he could have personally intervened and expedited the process. The petitioner also maintains that his landlord's wife was in the hospital when the application was pending, and that he should not be held responsible for the delay his landlord had in providing the Department with a shelter expense statement. Thus, the petitioner argues, the Department should grant him ANFC retroactively further back than from February 13, 1997.

#### ORDER

The Department's decision is affirmed.

#### REASONS

W.A.M. § 2210 provides as follows:

##### Deadline for Application Processing

Action on applications shall be completed as soon as possible but not later than within 30 days from date of application for ANFC. Within this deadline a decision must be made concerning the application and a notice of that decision in writing sent to the applicant.

The above program deadline applies except in unusual circumstances (e.g., where a decision cannot be reached because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency, in which instances the case record must document the cause for the delay). Failure to meet the established deadline shall not constitute the sole reason for denial of assistance unless it can be established and documented in the case record that such failure is the result of non-cooperation on the part of the applicant.

W.A.M. § 2226.1 includes the following:

ANFC shall be granted in the amount specified by Department regulations and continue until changed. Provided all eligibility factors are met, money payments are granted effective the date of authorization, when the worker actually approves an eligibility decision, or 30 days from (and including) the date of

application, whichever is earlier.

For ANFC incapacity cases only, if it is determined that:

1. financial need exists; and
2. facts are available which, in the opinion of the District Director, support a decision that it is more probable than not that the incapacity case can be established within a reasonable period; and
3. all other eligibility factors have been met;

then assistance may be granted provisionally and the effective date of the grant will be the date of authorization or 30 days from (and including) the date of application, whichever is earlier.

In this case, despite the petitioner's frustration with events and circumstances that were mostly beyond his control, it cannot be concluded that the Department's actions were dilatory or not in accord with the above provisions. Even if the petitioner could have been found "provisionally" incapacitated under § 2226.1 (supra) before his doctor furnished the Department with complete information, there is no question that the petitioner's landlord had still not furnished the Department with information necessary for the Department to have determined whether "all other eligibility factors (had) been met" (see supra).

In a more perfect world workers would perhaps be able to monitor the progress of applications and keep applicants posted on a more frequent basis. The evidence in this case indicates, however, that the petitioner's worker was timely and diligent in informing the petitioner what parts of his application were incomplete. Inasmuch as the Department met all its obligations under the regulations in processing the petitioner's application and granting him benefits retroactive to 30 days from the date he filed his application, the Board is bound by law to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

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