

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,426
)
Appeal of)

INTRODUCTION

The petitioner appeals an "Administrative Review Decision" of the Office of Child Support Enforcement (OCS). The preliminary issue is whether the petitioner's grievance is properly before the Human Services Board and whether the Board has jurisdiction to consider it.

DISCUSSION

The petitioner has participated in a telephone status conference in this matter with the OCS attorney and this hearing officer, and he has submitted a written explanation of his grievance. The following facts are not in dispute.

The petitioner is the subject of a child support order from the Windsor Vermont Family Court dated May 8, 2003 whereby the petitioner was ordered to pay \$332.76 per month in current child support and to pay an additional \$50.00 per month on arrearages that the Court determined to be \$3,638.45 to OCS and \$8,389.32 to the custodial parent as of April 30, 2003.

In or around October, 2004, OCS notified him that it intends to certify the petitioner's remaining arrearages for purposes of intercepting any tax refunds owed to the petitioner. The petitioner is a resident of Wisconsin and does not file Vermont taxes. However, he disputes the amount of the underlying court order because he claims the court failed to deduct amounts he alleges he had previously paid. The hearing officer and OCS advised the petitioner of his right to petition the Family Court for a modification of its order. However, it was explained to the petitioner that neither OCS nor the Human Services Board has the power or jurisdiction to modify or waive any arrearages found by the Family Court.

ORDER

The petitioner's appeal is dismissed because the Board lacks subject matter jurisdiction to hear it.

REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are

exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. 18,479 and 17,895.

The Board has also held that it has jurisdiction over OCS administrative decisions only in very limited cases. See, e.g., Fair Hearing Nos. 18,268 and 16,055. These cases are mainly limited to the jurisdictional mandate found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

Even if the petitioner has a valid reason to lower either his payment of child support or the arrearages he owes, these are issues that can only be considered and resolved by the court with subject matter jurisdiction over the underlying action. The Board cannot obtain jurisdiction of any claim in lieu of the Family Court. To do so would be plainly inconsistent with the federal Uniform Interstate Family Support Act. See 15B V.S.A. §§ 101 *et seq.* Inasmuch as consideration of the petitioner's grievance in this matter lies exclusively with the court that issued the underlying support decree (i.e., Vermont Family Court), it must be dismissed.

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