

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 19,711
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services withholding all of his retroactive SSI benefits as reimbursement for General Assistance (GA) paid to the petitioner during the pendency of his SSI application. The issue is whether such withholding and recovery is consistent with the pertinent regulations and with the terms of the "Recovery of Assistance (RA) Agreement" signed by the petitioner before he received GA.

FINDINGS OF FACT

1. From January 24 through April 15, 2005 the petitioner was a recipient of GA benefits. During that time he had a pending application for SSI disability benefits. In April 2005 he and the Department were notified that he had been found eligible for SSI retroactive to January 2005. The amount of his initial retroactive SSI payment for the months January through April 2005 was \$2,571.82.

2. On January 24, 2005 the petitioner signed a "Recovery of Assistance Agreement" with the Department whereby he agreed that as a condition of receiving GA his initial SSI check would be sent to the Department, which would deduct from it the total amount of GA the Department had paid to the petitioner during the period for which he was retroactively found eligible for SSI.

3. The Department paid the petitioner \$3,303.23 in GA from January through April 2005, the months in which he was found retroactively eligible for SSI. In April 2005, the Social Security Administration, per its policy and federal regulations (not at issue here), sent the petitioner's retroactive SSI check of \$2,571.82 directly to the Department. The Department then notified the petitioner that it had applied this entire amount toward the GA it had paid the petitioner during those months.

4. The petitioner does not dispute the Department's calculation of the amount of GA he received during the pendency of his SSI. He also does not dispute that he signed the recovery agreement in January 2005.

5. The petitioner's argument is that he signed the GA recovery agreement "under the influence of medications", and

that he understood he would only have to pay back a "percentage" of the GA benefits he received.

ORDER

The Department's decision is affirmed.

REASONS

The Department's authority to withhold from a GA recipient's initial SSI check the amount of GA that has been paid by the Department to that recipient during the pendency of that recipient's application for SSI is set forth in W.A.M. § 2600(D) as follows:

The GA applicant or GA household member who has a pending SSI application, or who is being referred by the Department to the Social Security Administration (SSA) to apply for SSI, must sign a Recovery of General Assistance Agreement which authorizes SSA to send the initial check to this Department so that the amount of GA received can be deducted. The deduction will be made regardless of the amount of the initial SSI check. The deduction shall be made for GA issued during the period from the first day of eligibility for SSI, or the day the Recovery of General Assistance Agreement is signed if later, to the date the initial SSI check is received by the Department.

. . .

Any remainder due to the SSI recipient shall be sent to him/her by the Department within 10 days. . .

The petitioner in this case signed a Recovery of General Assistance Agreement in January 2005. Whatever may have been

his capacity to understand the agreement, he would not have received any GA if he did not sign it. It is clear that when he signed the agreement he had either already applied for SSI or subsequently applied for it that same month. The agreement itself clearly stipulated that the Department was allowed to use this SSI payment to reimburse itself up to the full amount GA it had paid to the petitioner during the period of retroactive SSI coverage.

Inasmuch as the Department's decision in this matter was fully in accord with the regulations, the Board is bound by law to affirm. 3 V.S.A. §3091(d) and Fair Hearing Rule No. 17.

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