

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. Y-11/10-540
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division refusing to rescind written agreements the petitioner made, as a condition of receiving General Assistance (GA), that the Department would be reimbursed from any retroactive award of SSI benefits the petitioner might receive in the future. The following facts are not in dispute.

FINDINGS OF FACT

1. The petitioner has received GA benefits on the basis of disability for several years. For much of this time he has also been in the process of applying for, or appealing the denial of, SSI benefits from the Social Security Administration (SSA).

2. As a condition of his receiving GA, the Department has periodically required the petitioner to sign an **Authorization for Interim Assistance Reimbursement** form whereby the petitioner has authorized the Social Security

Administration to send any initial SSI check to the Department so that the Department can reimburse itself for any GA it has paid the petitioner during any months for which the petitioner receives a retroactive SSI payment.

3. The petitioner, who suffers from a mental illness, maintains that he did not understand that the agreements he signed included the GA that was paid to his father for his rent during this period.

4. The petitioner was recently found eligible for SSI. His eligibility included a substantial retroactive award for the months his appeals were pending. Under federal provisions in the Social Security Act (see below) the Social Security Administration sent the petitioner's retroactive award check to the Department. The Department has notified the petitioner that it has taken \$6,512 of this amount as "reimbursement" for GA it paid the petitioner during the months his SSI was pending, and which were included in the petitioner's retroactive SSI award.

5. At a hearing in the matter held on January 7, 2011 the petitioner did not dispute the Department's calculation of the amount of GA it paid to the petitioner in the months covered by his retroactive award of SSI. The petitioner maintains that the Department should not be allowed to

collect this amount because he was unaware of what he was signing when he entered into the authorization agreements and wouldn't have signed them if he had understood them.

ORDER

The Department's decision is affirmed.

REASONS

Federal regulations specifically allow states to require recipients of basic cash assistance to agree to reimburse the state for any such assistance paid during the pendency of an application for SSI if the recipient subsequently receives retroactive SSI benefits for the same period. See 20 C.F.R. § 416, Subpart P. The Vermont regulation pertaining to such reimbursements is W.A.M. § 2610C, which provides as follows:

General Assistance shall be furnished with the understanding that when a recipient subsequently acquires benefits or resources in any amount from: an inheritance; case prize; sale of property; retroactive lump sum Social Security, Veterans or Railroad Retirement benefits; or court awards or settlements; he/she shall be required to make reimbursement for the amount of aid furnished during the previous two years.

SSI/AABD Applicants

The GA applicant or GA household member who has a pending SSI/AABD application, or who is being referred by the department to the Social Security Administration (SSA) to apply for SSI/AABD, 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. Regardless of the amount of the initial SSI/AABD payment, the deduction shall be made for GA issued during the period from the first day of eligibility for SSI/AABD, or the day the Recovery of General Assistance Agreement is signed, if later, to the date the initial SSI/AABD check is received by the department.

When the SSI grant does not include all members of the GA household, the deduction shall be for a prorated portion of GA granted, to reflect only those included in the SSI grant.

The department shall send any remainder due to the SSI/AABD recipient within 10 days. An exception to this provision applies to individuals whose SSI is based on drug addiction or alcoholism. After SSI is granted and SSA has reimbursed Vermont for GA received, SSA will pay the remainder of the initial SSI/AABD payment to the recipient's representative payee.

In this case there is no dispute that the Department followed the above regulation both in requiring the petitioner to sign SSI reimbursement agreements and in deducting the amount of GA it paid the petitioner during the months covered by his retroactive SSI award. There are no exceptions in the regulations regarding who is required to sign such agreements before, *and as a condition of*, receiving GA. Even if the petitioner did not understand the agreements he signed, he simply would not have received any GA if he didn't sign them. Therefore, it cannot now be concluded that the petitioner has in any way been harmed by signing any agreement he purportedly did not understand. Thus, the Board

is required to affirm the Department's decision in this matter. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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