
Camden County v. J.S.
Cite as 5 *N.J.A.R.* 501

**CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,**

Petitioner,

v.

J. S.,

Respondent.

Decided April 16, 1982

Initial Decision

SYNOPSIS

A local county welfare board reduced respondent's Food Stamp benefits because of income from educational grants and a work-study program.

The administrative law judge assigned to the case determined that educational reimbursement for books and transportation are not normal living expenses and are thus excludable from income. In addition, the judge determined that respondent's college is the grantor of her educational grant and as such was entitled to earmark funds for educational expenses.

Accordingly, the administrative law judge ordered that the Board's decision be reversed.

Gerald P. Burke, Esq., for petitioner

Donald Ackerman, Esq. for respondent (Camden Regional Legal Services, attorney)

GOLDBERG, ALJ:

Respondent requests relief from the decision of the Camden County Board of Social Services reducing Food Stamp Program (FSP) benefits from \$106 to \$37 because of countable income from educational grants and a work-study stipend. A hearing was requested on February 17, 1982, and the matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to *N.J.S.A. 52:14F-1 et seq.*

At the request of respondent's attorney, the record was held open to permit submission of evidence from Camden County College re-

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garding educational expenses. The documents were received on April 2, 1982, and the record was closed.

For its adverse action, petitioner relied upon its interpretation of *N.J.A.C.* 10:87-5.9(a)6iii(4) which provides examples of excludible (from countable FSP income) reimbursements which are not considered to be a gain or benefit to the household, *i.e.*,

Reimbursement or allowances to students for specific education expenses such as travel or books, but not allowances for living expenses, such as food, rent or clothing. Portions of a general grant or scholarship must be specifically earmarked by the grantor for education expenses, rather than living expenses to be excluded as a reimbursement.

A REVIEW OF THE UNDISPUTED FACTS

Respondent, a recipient of a \$273 AFDC grant, and her minor child comprise the eligible FSP household. Respondent is presently enrolled as a full-time student in the Human Service/Teacher Aid option curriculum at the Camden County College. Her grades are excellent. On January 13, 1982, respondent was recertified for FSP participation. At the interview, respondent reported that she was attending Camden County College, for which purpose she had received educational grants and a work-study stipend. The amounts of the grants and the stipend were stipulated as follows:

Basic Education Opportunity Grant (BEOG)	
Fall Semester 1981	\$ 454
Spring Semester 1982	\$ 330
Supplemental Educational Opportunity Grant (SEOG)	
Fall Semester 1981	\$ 175
Spring Semester 1982	\$ 175
Tuition Assistance Grant (TAG)	
Fall Semester 1982	\$ 240
Total Grants	1,374
Work-Study Stipend	
Fall Semester 1981	\$ 635
Spring Semester 1982	\$ 635

Petitioner, not disputing that respondent's educational expenses of tuition and mandatory fees are to be excluded from computing the FSP benefit level, correctly used these expenses to reduce countable

income. *N.J.A.C.* 10:87-5.9(a)4. In addition, respondent did not contest petitioner's inclusion of \$84 per month of countable FSP from the proceeds of the work-study stipend.

Respondent also incurs certain other educational expenses which petitioner contends are not excludible because they are allegedly not "earmarked by the grantor" for educational expenses. These include the costs of textbooks and transportation to and from school. The verified costs of books are \$117.37 for the fall semester of 1981 and \$136.90 for the spring semester of 1982. With respect to transportation costs, the parties stipulated that respondent travels 28 miles per day, five days a week, to and from school using her own automobile. Actual transportation costs are obtained by multiplying weekly mileage of 140 by a mileage allowance of eighteen and one-half cents to obtain weekly transportation costs of \$25.90 or \$112.23 per month. The parties also do not dispute that the school year 1981-82 extends over an eight-month period.

The dispute in the case is centered around petitioner's action not to exclude respondent's stipulated costs of books and transportation. It based its decision not on the regulations, but rather on a letter from its Division of Public Welfare (DPW) Field Representative, dated January 18, 1982, which states that earmarking of funds from a general educational grant which are excludible FSP reimbursements may only be undertaken by the originator of the reimbursement or allowance. Therefore, the DPW Field Representative reasons that in the case of BEOGs, the educational institution cannot earmark funds from the grant because it is not the originator of the grant. The facts contained in the above narrative being undisputed, they are adopted as Uncontested Findings of Fact.

CONCLUSIONS OF LAW

The petitioner's decision not to exclude respondent's costs of books and transportation violates FSP regulations which authorize the exclusion of past and future expenses which do not represent a gain or benefit to the household. Reimbursements for normal household living expenses, such as rent or mortgage, personal clothing, or food eaten at home, are a gain to the household and may not be excluded. *N.J.A.C.* 10:87-5.9(a)6. Educational reimbursements for books and transportation are not normal living expenses and are thus excludable. Further, the instructions from the Division of Public Welfare disallowing educational institutions from "earmarking" BEOGs because they

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are not the originators of the grants is contrary to case law and exhibits a lack of understanding as to the process by which BEOGs are dispensed. In *Shaffer v. Steger*, (N.D. Ohio, June 5, 1981, No. 80-101) (unreported) the Federal District Court provided the following clarification on the issue of who is the grantor:

While the Department of Education provides the monies for the grants and determines the eligibility of students for grants, the college is charged with the duty of ascertaining the amount of the grant for each individual student. . . .

The institution then proceeds to determine the amount of each individual grant award, using standard factors and procedures established by the Office of Education. . . .

Under these circumstances, this Court feels that the institution falls *within the concept of a "grantor" for purposes of "earmarking"* BEOG monies for *educational purposes*. (emphasis added).

Notwithstanding the court's identification of the college as the grantor, any rational reasonable person must conclude that since a BEOG applicant initiates the procedure in the financial aid office of the college and, if eligible, receives the award letter from said office without the application ever leaving the institution, the originator of the grant is the college.

In *Murray v. Department of Human Services*, 177 *N.J. Super.* 467, (App. Div. 1981), certif. den., 87 *N.J.* 412 (1981) the court stated, at 469, that:

Grants under the BEOG program are earmarked for tuition, mandatory fees, books, supplies and "expenses related to reasonable commuting insofar as pertinent to [the] appellant as a commuter to college." Grants under the New Jersey Educational Opportunity Fund program "take into account . . . tuition, fees and living expenses at the institution. . ."

The Murray court also concluded that:

Appellant disbursed a substantial portion of the balance from her grants remitted to her by the college for commutation, an education expense for which reimbursement . . . is specifically excludible from [FSP] income under the governing regulations.

Based upon the facts and pursuant to the previously cited regulations, I **CONCLUDE**:

1. Respondent's college is the grantor of her educational grants

and as such is entitled to earmark funds for educational expenses.

2. BEOGs are earmarked by the Department of Education for educational expenses including books and the reasonable costs of commuting to college.
3. Respondent's expenditures for books and school commutation are not considered a gain or benefit and are thus excludible from countable FSP income.
4. Respondent's countable FSP income must include her monthly AFDC grant of \$273, her monthly work-study stipend of \$84, and the balance of her educational grants after excluding the costs of tuition, mandatory fees, books and commutation prorated over the eight months of school.

Therefore, petitioner's decision not to exclude respondent's educational expenses of books and commutation is **REVERSED** and petitioner is **ORDERED** to recalculate respondent's FSP entitlement for the school year 1981-82. I also **ORDER** petitioner to restore any lost benefits resulting from its adverse action.

**After reviewing this Initial Decision, the
Division of Public Welfare on May 13, 1982
issued the following Final Decision:**

Having reviewed the initial decision and any exceptions or replies submitted, I hereby amend the decision of the administrative law judge in the above-captioned case.

In determining countable food stamp income from educational assistance grants, a county welfare agency is bound by provisions of *N.J.A.C.* 10:87-5.5(a)4 and 5.9(a)4 which prescribe conditions and limitations applicable to exclusions and reimbursements. Unless "specifically earmarked" by the grantor, in accordance with *N.J.A.C.* 10:87-5.9(a), only tuition and mandatory fees qualify for exclusion in calculating food stamp benefit entitlement.

Since grant monies received by the respondent were not provided by the college the respondent attends, the college cannot act as the grantor for purpose of earmarking funds. Accordingly, the recommended decision by the administrative law judge, that benefit entitlement be recomputed to exclude expenses for travel and books, is rejected.

In the absence of dispute pertaining to the calculation of benefits, other than the treatment of grant monies, the action reducing the food stamp coupon allotment is affirmed.