

C.S.,
Petitioner,
v.
**ESSEX COUNTY DEPARTMENT
OF CITIZENS SERVICES,
DEPARTMENT OF WELFARE,**
Respondent.

Decided August 21, 1979

Initial Decision

SYNOPSIS

A recipient of benefits under the Aid to Families with Dependent Children program, who promptly reported the loss of his endorsed monthly check and who received no benefit from the fraudulent cashing of the check after stop payment had been ordered, was entitled to a duplicate assistance check. Emergency assistance payments which were received by petitioner pursuant to *N.J.A.C. 10:82-5.10(c)* would be deducted from the duplicate assistance check.

ROBBINS, ALJ:

Petitioner requests relief from the administrative determination of the Essex County Department of Citizens Services, Division of Welfare, denying issuance of a duplicate assistance check under the program of Aid to Families with Dependent Children (AFDC), pursuant to *N.J.A.C. 10:81-7.19*. 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 issue is the administrative determination to deny issuance of a duplicate assistance check for the month of May 1979. *N.J.A.C. 10:81-7.19* provides:

The county welfare board will issue a duplicate check within five working days of receipt of notification from the client that his or her assistance has been lost or stolen, The client shall complete an affidavit stating that he/she did not receive or endorse the check. The agency shall file a stop payment order with the bank.

On May 3, 1979, petitioner lost his endorsed May 1979 AFDC check en route to the bank to cash this check. He immediately reported this loss to the bank, to the police department and to the welfare agency. Although the agency issued a stop payment on the check on May 4, 1979, the check was fraudulently cashed on May 7, 1979, and the agency is investigating circumstances surrounding this cancelled check.

The agency agrees that the petitioner lost his check; that he followed proper procedures in reporting the loss; and that he received no benefit from the cashing of this check. However, since the check was endorsed by the petitioner, it is the agency's position that regulations do not permit issuance of duplicate assistance. Therefore, petitioner's request for issuance of a duplicate check was denied. However, to alleviate petitioner's loss, emergency assistance for food for the month of May 1979 was issued. This amounted to \$326.00 based on a daily food allowance of \$1.50 per day per person for the petitioner's 7 person household.

Petitioner's legal representative stated that the intent of the regulation is to insure that a duplicate check is not issued if the original has already been cashed by the recipient. She further contended that the issuance of emergency assistance for food was inappropriate as the petitioner had received Food Stamps for the month of May. It was her position that replacement of the check was required as the petitioner was unable to meet the basic living needs for the month and therefore was in an imminent state of homelessness.

Based on the foregoing, I **FIND**:

1. There is no dispute that on May 3, 1979, petitioner lost his endorsed May 1979 AFDC check in the amount of \$531.00.
2. Petitioner immediately reported this loss to the bank, to the agency, and to the police.
3. A stop payment order was issued by the agency to the bank on May 4, 1979. In spite of this order the check in question was cashed on May 7, 1979.
4. There is no dispute that the petitioner did not cash the check in question or receive any benefit from the proceeds of the check.
5. The agency recognized that the petitioner was in need of emergency assistance for the month of May 1979 and issued an allowance of \$326.00 based on the standards of emergency food allowance.

6. Regulations found in *N.J.A.C.* 10:82-5.10(c) provides that "when because of an emergent situation over which they had no control or opportunity to plan in advance, the eligible unit is in a state of homelessness" emergency assistance may be recognized.
7. The petitioner was in a state of imminent homelessness at the beginning of the month of May 1979 because of his lack of funds to provide for his needs during that month. The receipt of \$326.00 in emergency assistance during the month of May 1979 was insufficient to meet minimum essential requirements for provisions of food and shelter.

Based on the facts adduced at the hearing in this proceeding and the applicable regulations, I **CONCLUDE** that the petitioner has entitlement to emergency assistance for the month of May 1979 in an amount equal to his AFDC grant of \$531.00.

Therefore, the action of the Essex County Department of Citizens Services, Division of Welfare, in denying issuance of full assistance for the month of May 1979 is **REVERSED**. The agency is directed to issue an additional payment in the amount of the difference between the monthly grant of \$531.00 and the emergency assistance already provided.

**After reviewing this Initial Decision,
the Division of Public Welfare on August 21, 1979,
issued the following Final Decision:**

The action by the Essex County Department of Citizen Services Division of Welfare denying replacement of the petitioner's May 1979 assistance check is found contrary to regulation and is reversed.

Action by the agency in providing emergency assistance is recognized. An additional payment shall be issued to the petitioner in the amount of the difference between the May 1979 grant entitlement and the amount of emergency assistance already provided.