IN THE COURT OF APPEALS OF IOWA

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CLERK SUPREME COURT

213

CARL KRIEGER,

Petitioner-Appellant,

vs.

IOWA DEPARTMENT OF HUMAN SERVICES,

Respondent-Appellee.

8-299
87-1493

Appeal from the Iowa District Court for Black Hawk County (Civ. No. 68592), James L. Beeghly, Judge.

Petitioner appeals an order of the district court dismissing his petition for judicial review of a decision of the Department of Human Services to recoup $1,700 in Aid to Families with Dependent Children (A.D.C.) benefits previously paid to petitioner and his family. **AFFIRMED.**

Lois K. Cox, Attorney, Iowa City, and Gregory T. Boer, Student Intern, Clinical Law Program, for petitioner-appellant.

Thomas J. Miller, Attorney General, and Stephen C. Robinson, Assistant Attorney General, for respondent-appellee.

Heard by Oxberger, C.J., and Schlegel and Hayden, JJ.

OXBERGER, C.J.

21.1

Petitioner Carl Krieger applied for Aid to Families with Dependent Children benefits in November 1984 and his application was approved in December of that same year. During the department's annual review of the Krieger case in October 1985 it was discovered that the Kriegers had an insurance policy which was not disclosed on the initial application. The department mailed the Kriegers a letter asking for additional information about the policy. The Kriegers testified they did not receive the letter. The department did not follow up on the letter.

A D.H.S. Quality Control Report in January 1986 determined that because of this additional insurance policy the Krieger's resources were in excess of the permissible limits as of October 1, 1985. Kriegers' A.D.C. was canceled and the department sought to recoup $1,700 which is the amount Krieger and his family received after October 1, 1985. During this time, from October to December 1985 and January 1986, Krieger worked about thirty hours per week at the Waterloo Pollution Control Plant as a condition of eligibility for A.D.C. under the Community Work Experience Program (C.W.E.P.). See Iowa Code § 239.2(3)(e) (1987).

After a hearing, the hearing officer concluded that overpayment had occurred due to client error. Under the Iowa Administrative Code the rate of recoupment is ten

percent (10%). The department did not allow Krieger credit for working the C.W.E.P. hours during this period of ineligibility. Krieger filed a petition for judicial review. The district court dismissed the petition, stating that it would be bad policy to permit recipients to retain benefits which resulted from their own oversight or intentional failure to disclose. Krieger has appealed from this action and raises two issues on appeal. Petitioner claims the district court erred in (1) failing to give conclusive effect to the findings made before the administrative hearing officer, and (2) denying him equitable relief in the form of an offset of recoupment for the reasonable value of his work which was performed as a condition of receiving benefits. We affirm the action of the agency.

We have the authority to hear this case pursuant to Iowa Code section 17A.20 which provides that "[a]n aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal." Iowa Code § 17A.20 (1987). Judicial review of an administrative action is not de novo. McClure v. Iowa Real Estate Comm'n, 356 N.W.2d 594, 596 (Iowa App. 1984). Review is limited by the finite and exhaustive list set forth in Iowa Code

section 17A.19(8) (1987).[1] Section 17A.19(8) is "the exclusive means for challenging agency action." Benson v. Fort Dodge Police Pension Board of Trustees, 213 N.W.2d 548, 550 (Iowa 1981). In order to succeed in challenging agency action, the petitioner must demonstrate prejudice to substantial rights and the prejudice must arise from agency action which falls within one or more of the grounds enumerated in section 17A.19(8). Mercy Health Center v. State Health Facilities, 360 N.W.2d 808, 811 (Iowa 1985) (citing Iowa Bankers Ass'n v. Iowa Credit Union Dep't, 335 N.W.2d 439, 447 (Iowa 1983)). Our limited factual review is as it should be, since the crux of administrative law is that the agency has at its disposal the facilities and expertise with which to appropriately resolve detailed and complicated questions arising in their particular field. See McClure v. Iowa Real Estate Comm'n, 356 N.W.2d 594, 597 (Iowa App. 1984). We are only to intercede when the

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1. 8. The court may affirm the agency action or remand to the agency for further proceedings. The court shall reverse, modify, or grant any other appropriate relief from the agency action, equitable or legal and including declaratory relief, if substantial rights of the petitioner have been prejudiced because the agency action is: a. In violation of constitutional or statutory provisions; b. In excess of the statutory authority of the agency; c. In violation of an agency rule; d. Made upon unlawful procedure; e. Affected by other error of law; f. In a contested case, unsupported by substantial evidence in the record made before the agency when that record is viewed as a whole; or g. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

commission is clearly shown to have acted unconstitutionally, in violation of statutory mandate, or absent substantial support in the record. Id. (citing Penn-Central Merger and N&W Inclusion Cases, 389 U.S. 486, 524 (1968)).

The issues addressed at the hearing were (1) whether the department's establishment of a claim for overpayment paid assistance was correct, and (2) whether the department's action to recoup an overpayment by benefit reduction was correct. Petitioner did not contest his ineligibility for the period in question. He did assert, however, that the cause of his ineligibility (failure to report an insurance policy) was not his fault and therefore the recoupment rate should be one percent (1%) rather than ten percent (10%). Further, petitioner argued that he should be entitled to an offset for the value of the services which he rendered during this period of ineligibility.

The hearing officer determined overpayment had occurred under the definition provided in Iowa Administrative Code 498-46.1[2]. "All overpayments due to agency or client error . . . shall be recouped." Iowa Admin. Code r. 498-46.4 (1987). The hearing officer determined the rate

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2. "Overpayment" means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive.

of recoupment to be ten percent (10%) pursuant to Iowa Admin. Code r. 441-46.5(3).

We would note that one of petitioner's issues on appeal is that the district court did not give full effect to the findings of the agency. The hearing officer found there was no evidence that failure to report the insurance policy was intentional. The district court indicated that the petitioner may have lacked good faith in his failure to disclose information. We would reaffirm the hearing officer's findings that regardless of intent or whether error ultimately lies with the client or a combination of the client and the agency, the rule is specific and requires a ten percent (10%) benefit reduction. We find substantial evidence to support the agency decision.

We turn next to petitioner's contention that his recoupment of benefits should be offset by the value of work performed by him as a condition of eligibility. See Iowa Code § 239.2(3)(e) (1987). Petitioner contends he and the department were mutually mistaken about his eligibility and that restitution is the proper and equitable remedy to prevent unjust enrichment. Krieger argues the refusal to allow him to offset the reasonable value of his labor allows the department and the City of Waterloo to be unjustly enriched. In response to this claim, the hearing officer noted her authority is limited to the rules of the

program. The rules relating to recoupment are specific. See Iowa Admin. Code r. 441-46 (1987). These rules do not include any reference to equity principles as they relate to recoupment. Id.

We are not empowered, just as the trial court is not, to substitute our judgment for that of the agency in matters of this kind. See McClure, 356 N.W.2d at 597. The appellant has failed to cite any authority which would allow this court to apply general equitable principles of unjust enrichment in recoupment where the legislature has established limited circumstances for recoupment. The extent of our authority in review of agency decisions goes only to the correction of errors occurring with regard to subsections (a) through (g) of Iowa Code section 17A.19(8). Petitioner's requested relief goes beyond such authority. The appropriate remedy for petitioner's claim would be to petition the agency and request the adoption of a rule which would allow an offset of recoupment of benefits for the value of services performed as a condition of eligibility in an overpayment of Aid to Families with Dependent Children benefits under Iowa Code section 17A.7 (1987).

We affirm the agency decision, its findings of overpayment of benefits and recoupment at a rate of ten percent (10%).

AFFIRMED.