INTERIOR BOARD OF INDIAN APPEALS

Mattie Wines v. Eastern Nevada Tribal Social Services, Bureau of Indian Affairs

6 IBIA 1 (01/24/1977)
Mattie Wines, through her attorney; Michael David Cox, Nevada Indian Legal Services, has filed a request that the Board take jurisdiction of the appeal herein and render a decision thereon pursuant to 25 CFR 2.19.

The appeal is hereby docketed, considered, and disposed of this date.

The request, filed with the Board on January 13, 1977, must be denied and dismissed in light of the fact that the Commissioner, Bureau of Indian Affairs, under date of January 10, 1977, rendered a decision on the appeal which is final for the Department. Accordingly, this Board is without jurisdiction to grant the relief requested by the appellant. A copy of the Commissioner's decision is attached hereto.

NOW, THEREFORE, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the request of Mattie Wines be, and the same is hereby, denied and dismissed for the reasons hereinabove set forth.

Done at Arlington, Virginia.

//original signed
Alexander H. Wilson
Administrative Judge

I concur:

//original signed
Mitchell J. Sabagh
Administrative Judge

Attachment
Dear Mrs. Wines:

This refers to your appeal to the Commissioner of Indian Affairs concerning the decrease in your general assistance payment as determined by the Eastern Nevada Tribal Social Services Program.

We have reviewed the information and related documentation regarding your appeal. We regret very much the excessively long length of time required to complete this review and offer our apology to you for any inconvenience this delay may have caused you.

The specific section of the Bureau's manual which cites the method by which your payment was computed is contained in 66 IAM 3.1.7A.

“...The State Public Assistance standard governing basic consumption and special need items with their corresponding money amounts which is currently in effect in the State where an Indian general assistance applicant lives will be the basis for exploration and assessment of his need. If the State's assistance standard provides for differences in the several categories of public assistance, the standard for the category which most closely resembles the applicant's individual or family situation should be applied.

...The established money accounts or methods for determining the cost of items specified in the State standard shall be applied in the determination, unless a need item is available without cost or is inapplicable to the individual or family.”

In accordance with the above, your general assistance payments should have been computed using Nevada State standards for the aged rather than State standards related to aid for dependent children. We concur, therefore, with your contention that your general assistance payment was inappropriately...
reduced and we uphold your appeal. We are returning your appeal materials to this Bureau's Phoenix Area Director for further consideration of your payment retroactive to May 1976.

Our upholding of your appeal is based upon the exercise of discretionary authority by the Commissioner of Indian Affairs. As such, our decision is final for the Department of the Interior.

Sincerely yours,

//original signed

Commissioner of Indian Affairs