

CA Court Upholds CalWORKS and Food Stamp Fingerprinting Requirement

Sheyko v. Saenz, 2003 Cal. App. LEXIS 1532 (Ct. of Appeal of Cal., 3rd App. District) (Oct. 9, 2003)

This case challenges aspects of California's fingerprinting system for CalWORKS and Food Stamps and asserts that the implementing regulations exceed the statute mandating such a system. On appeal from a trial court decision that ruled partly for plaintiff, the appellate court has ruled for the state defendant and upheld the fingerprinting system. The court's decision includes the following points. Claims about the effectiveness of the fingerprinting system are for the legislature, not the court, to decide. The court rejects assertions that the system interferes with plaintiffs' privacy rights and religious freedom and that using fingerprinting as an eligibility requirement impermissibly deters people from applying for assistance and undermines the agency's obligation to aid eligible individuals. The agency may require all parents, legal guardians, and caretaker relatives in a CalWORKS household to comply with the fingerprinting requirement, even if they are not eligible. The agency's fingerprinting system may require photographs of individuals subject to fingerprinting. The agency may find the entire household ineligible if an individual fails to comply with the fingerprinting requirement. The court rejects a distinction between "refusal" and "failure" to comply, finds that people have many chances to comply and that non-compliance means that an eligibility requirement has not been satisfied.

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NY Court Finds Due Process Violations in HEAP Program

Kapps v. Wing, 2003 U.S. Dist. LEXIS 17633 (E.D.N.Y., Sept 19, 2003)

Relying upon early Welfare Law Center due process victories in *Goldberg v. Kelly*, 397 U.S. 254, (1970) and *Escalera v. NYC Housing Authority*, 425 F. 2d 853 (2d Cir. 1970), the court held that despite the considerable discretion states have in establishing eligibility requirements for benefits under the federal Low Income Home Energy Assistance Program (HEAP) block grant, once eligibility standards are established, and so long as funds are available, eligible individuals have a constitutionally protected interest in HEAP benefits. This means that the state has violated due process when it (1) sends notices that do not provide the information necessary for the individual to determine whether eligibility and benefits were correctly determined, and (2) delays making determinations to a time when an appeal cannot be pursued. On the other hand, due process is not violated when the state takes more time to process a claim than state regulations permit.

The court also held that there was a private right of action under the federal HEAP statute, but that there was only one violation of those rights. The court also certified a class, rejecting arguments that such certification was unnecessary because all would benefit from a determination, noting that the defendants argued at the same time that resolution of the individual plaintiffs' claims would moot out the case. Finally, barred from ordering any retroactive money relief by the Eleventh Amendment, the court ordered *Quern* notice to the class of the fact that the defendants' past actions were unconstitutional.

At least one of the defendants has filed a notice of appeal to the Second Circuit.

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NY Court Upholds Class Certification in Tax Intercept Case

Watts v. Wing, 765 NYS2d 18 (1st Dept., 2003)

Under New York state law, the welfare agency was allowed to intercept state tax refunds to recover welfare overpayments. Plaintiffs claimed that the failure to provide notice and an opportunity to contest the debt violated due process. The Appellate Division, by a 3-2 vote, upheld the class certification on the grounds that there were issues common to all members of the class (adequate notice and a meaningful opportunity for a hearing). The "government operations rule" invoked by the State, which presumes that the State will comply with the decision in an individual case in future situations affecting others, has no application here because the alleged due process violations occurred in the past. The majority rejected the dissenters' claim that class certification was inappropriate because individual hearings would be required for each member of the class who wanted to challenge the validity of a debt.

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