

NO. S-01-000508

IN THE SUPREME COURT
FOR THE STATE OF NEBRASKA

STATE OF NEBRASKA, NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN
SERVICES, and RON ROSS, Director,

Appellants,

v.

ANGELA KOSMICKI,

Appellee.

APPEAL FROM THE DISTRICT COURT
OF LANCASTER COUNTY, NEBRASKA

The Honorable John A. Colborn, District Judge

BRIEF OF APPELLANTS

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STATEMENT OF THE BASIS OF JURISDICTION OF THE SUPREME COURT

This appeal is brought pursuant to Neb. Rev. Stat. § 25-1911 et. seq. (Reissue 1995). This appeal is from the final order of the District Court of Lancaster County entered on March 27, 2001. The notice of appeal was filed on April 25, 2001. The docket fee was also deposited on April 25, 2001. Because the Appellant is the State of Nebraska, no supersedeas bond is required, pursuant to Neb. Rev. Stat. § 25-21,213 (Reissue 1995).

STATEMENT OF THE CASE

1. The Nature of the Case. This was an appeal of the October 17, 2000, Finding and Order by the Nebraska Department of Health and Human Services ("HHS") implementing an Employment First sanction pursuant to the Welfare Reform Act, Neb. Rev. Stat. § 68-1708 through § 68-1737 (Reissue 1996), against the Appellee.

2. The Issues Tried in the Court Below. The issues tried before the district court were: a) whether the Employment First Service Plan the Appellee signed on May 12, 2000, was invalid because it was signed under duress, coercion, and intimidation; and b) whether a new Employment First Service Plan should be re-negotiated between the Appellant and Appellee to reflect that she could attend the University of Nebraska-Lincoln.

3. How the Issues Were Decided and What Judgment or Decree was Entered by the Trial Court. After a trial before the Court, the District Court held that the Employment First Service Plan signed May 12, 2000, was not signed under duress, coercion, or intimidation. Further, the District Court held that the Appellant should allow the Appellee the opportunity to re-negotiate a new Employment First Service Plan to reflect her intention to attend the University of Nebraska-Lincoln.

4. Scope of Review. The judgment rendered or final order made by the district court [in reviewing a petition pursuant to the Administrative Procedure Act] may be reversed, vacated, or modified for errors appearing on the record. Neb. Rev. Stat. § 84-918(3) (Reissue 1999). "When reviewing an order for errors appearing on the record, the inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable." *Lee v. Neb. State Racing Comm'n*, 245 Neb. 564, 567, 513 N.W.2d 874, 876 (1994).

ASSIGNMENT OF ERROR

1. The District Court erred in holding that the Appellee was entitled to re-negotiate a new Self-Sufficiency Service Plan that included Appellee attending the University of Nebraska-Lincoln, as the University of Nebraska-Lincoln is an unacceptable institution for Appellee to attend, as she cannot complete a degree within the twenty-four (24) month time limit allowed for Aid to Dependent Children benefits, and as such will not be self-sufficient by the end of her ADC eligibility.

PROPOSITIONS OF LAW

I.

THE PRIMARY PURPOSE OF THE WELFARE PROGRAMS IN THIS STATE IS TO PROVIDE TEMPORARY, TRANSITIONAL SUPPORT FOR NEBRASKA FAMILIES SO THAT ECONOMIC SELF-SUFFICIENCY IS ATTAINED IN AS AN EXPEDITIOUS MANNER AS POSSIBLE, WITH THE GOAL OF

ATTAINING SUCH SELF-SUFFICIENCY WITHIN TWO YEARS OF THE INITIAL RECEIPT OF PUBLIC ASSISTANCE.

Neb. Rev. Stat. § 68-1709 (Reissue 1996).

II.

THE LEGISLATURE FURTHER FINDS AND DECLARES THAT THIS GOAL IS TO BE ACCOMPLISHED THROUGH INDIVIDUALIZED ASSESSMENTS OF THE PERSONAL AND ECONOMIC RESOURCES OF EACH APPLICANT FOR PUBLIC ASSISTANCE AND THROUGH THE USE OF INDIVIDUALIZED SELF-SUFFICIENCY CONTRACTS.

Neb. Rev. Stat. § 68-1709.

III.

(1) UNDER THE SELF-SUFFICIENCY CONTRACT DEVELOPED UNDER SECTION 68-1719, THE PRINCIPAL WAGE EARNER AND OTHER NONEXEMPT MEMBERS OF THE APPLICANT FAMILY SHALL BE REQUIRED TO PARTICIPATE IN ONE OR MORE OF THE FOLLOWING: EDUCATION, JOB SKILLS TRAINING, WORK EXPERIENCE, JOB SEARCH, OR EMPLOYMENT.

(2) EDUCATION SHALL CONSIST OF THE GENERAL EDUCATION DEVELOPMENT PROGRAM, HIGH SCHOOL, ADULT BASIC EDUCATION, ENGLISH AS A SECOND LANGUAGE, POSTSECONDARY EDUCATION, OR OTHER EDUCATION PROGRAMS APPROVED IN THE CONTRACT.

Neb. Rev. Stat. § 68-1721 (Reissue 1996).

IV.

THE CENTRAL MEANING OF PROCEDURAL DUE PROCESS IS THAT PARTIES WHOSE RIGHTS ARE TO BE AFFECTED ARE ENTITLED TO BE HEARD, AND, IN ORDER THAT THEY MAY ENJOY THAT RIGHT, MUST FIRST BE NOTIFIED.

Dannehl v. Dept. of Motor Vehicles, 3 Neb. App. 492, 499, 529 N.W.2d 100, 105 (Neb. App. 1995).

V.

A REGULATION OR DECISION OF AN AGENCY MUST BE SUPPORTED BY COMPETENT EVIDENCE, AND MUST BE NEITHER ARBITRARY, CAPRICIOUS, NOR UNREASONABLE.

Whitehead Oil Co. v. City of Lincoln, 245 Neb. 680, 692, 515 N.W.2d 401, 409-10 (1994).

STATEMENT OF FACTS

Appellee Angie Kosmicki applied for Aid to Dependent Children ("ADC") benefits in September of 1998, at the Gering office of HHS while she was living in Scottsbluff. At that time, she was enrolled at Western Nebraska Community College. She was enrolled in the psychology program to receive an Associate of Arts degree. On November 9, 1998, Appellee signed an Employment First Self-Sufficiency Contract, pursuant to Neb. Rev. Stat. § 68-1719 (Reissue 1996), of the Welfare Reform Act. This contract was the result of an assessment, conducted by Nancy Gamboa, a case manager in the Gering office of HHS. This contract recognized her goal of obtaining an Associate of Arts degree in

psychology within the required twenty-four (24) month period. According to Neb. Rev. Stat. § 68-1724 (Reissue 1996), ADC benefits are limited to twenty-four (24) months.

In August of 1999, Appellee decided to move to Lincoln, and her case was closed in the Gering office. (E10 in the administrative appeal materials, which are marked E3).

In February of 2000, Appellee decided to move back to Scottsbluff, and Appellee reapplied for assistance in the Gering office.

In April of 2000, Appellee informed her case worker, Sharon Trauernicht, that she was again moving to Lincoln to live in the Friendship Home, and wanted her case transferred from Gering to Lincoln. (E12 in the administrative appeal materials, which are marked E3).

On May 12, 2000, Appellee met with Patrick McClure, a case worker in Lincoln, who reviewed her old assessment and recent experiences, including dealing with domestic abuse. A new Employment First Service Plan was completed on this day. According to the new plan, Appellee's long-term goals were to obtain full-time employment and achieve economic self-sufficiency. (E13). Appellee's short-term goals included an independent job search, group sessions at the Friendship Home, and to attend Curtis and Associates on June 19, 2000, if she had not found full-time employment by that date. (E13, E14 in the administrative appeal materials, which are marked E3).

Appellee had not found full-time employment as of June 19, 2000, but did not attend Curtis and Associates that day. She did attend Curtis and Associates on June 22, 2000, but did not return to the facility. Appellee would not return to Curtis and Associates because she claimed she wanted to go back to school. Appellee wanted to attend the

University of Nebraska-Lincoln ("UNL"). Appellee stated that she wanted to receive a bachelor's degree in fine arts, which would take approximately three (3) to five (5) years to complete. Patrick McClure told Appellee that she could not attend UNL because she could not finish her degree there within the remaining time she had to receive ADC benefits, which was approximately fifteen (15) months. Mr. McClure suggested that Appellee continue her education that she was receiving at Western Nebraska Community College, which she could do at Southeast Community College in Lincoln. Appellee refused to comply with her current Employment First Service Plan and would not negotiate a new Employment First Service Plan, unless the plan included her ability to attend UNL. (E22 of the administrative appeal materials, which are marked E3).

Because Appellee would not comply with the terms of her Employment First Service Plan, she was given a Notice of Failure to Cooperate on July 5, 2000. (E16 in the administrative appeal materials, which are marked E3). This notice required Appellee to meet with Mr. McClure on July 10, 2000. Appellee requested an extension of time for the meeting date until July 20, 2000, which was accepted. Appellee met with Mr. McClure on July 20, 2000, and refused to comply with the current terms of her Employment First Service Plan, as she wanted to attend UNL, and Mr. McClure said that was impossible. As a result of the noncompliance, Mr. McClure sent Appellee a Notice of Action form on July 21, 2000, that sanctioned Appellee. (E21 of the administrative appeal materials, which are marked E3). The sanction included removing all ADC payments and Appellee's medical coverage effective August 1, 2000.

Appellee filed a Request for a Fair Hearing to appeal the decision of Mr. McClure to HHS on July 27, 2000. (E23 of the administrative appeal materials, which are marked E3). An informal hearing was held by telephone conference before Audie Wise, designated hearing officer, on September 22, 2000. (E3). Ron Ross, the Director of HHS, upheld the sanction in an order dated October 17, 2000. Appellee appealed that decision to the District Court of Lancaster County. Judge Colburn reversed the decision of DHHS, and remanded the case to HHS to re-negotiate an Employment First Service Plan that would allow for Appellee to attend UNL as part of her service agreement. Appellant now appeals the order of the District Court.

ARGUMENT

I.

THE GOAL OF THE WELFARE REFORM ACT IS TO FACILITATE THE SELF-SUFFICIENCY OF ADC RECIPIENTS WITHIN TWENTY-FOUR (24) MONTHS OF THE INITIAL RECEIPT OF ASSISTANCE THROUGH SELF-SUFFICIENCY CONTRACTS.

The Welfare Reform Act, in pertinent part, states:

. . . the primary purpose of the welfare programs in this state is to provide temporary, transitional support for Nebraska families so that economic self-sufficiency is attained in as an expeditious manner as possible, with the goal of attaining such self-sufficiency within two years of the initial receipt of public assistance.

Neb. Rev. Stat. § 68-1709 (Reissue 1996).

The primary goal of the Welfare Reform Act is set out in the first paragraph of the Act. It is to provide transitional support for families, with the ultimate goal of obtaining economic self-sufficiency within two years. This is plainly set out in the language of the Act.

In addition to this goal, the Legislature discusses how it intends to assist recipients in achieving economic self-sufficiency:

The Legislature further finds and declares that this goal is to be accomplished through individualized assessments of the personal and economic resources of each applicant for public assistance and through the use of individualized self-sufficiency contracts.

Neb. Rev. Stat. § 68-1709.

Therefore, a recipient of ADC benefits must sign a self-sufficiency contract, tailored to fit their individual needs, to further the goal of becoming self-sufficient within the two year time limit the Legislature has outlined. In tailoring the contract, there are many different things that can be taken into account to determine how self-sufficiency is to be obtained by the recipient family:

(1) Under the self-sufficiency contract developed under section 68-1719, the principal wage earner and other nonexempt members of the applicant family shall be required to participate in one or more of the following: Education, job skills training, work experience, job search, or employment.

(2) Education shall consist of the general education development program, high school, Adult Basic Education, English as a Second Language, postsecondary education, or other education programs approved in the contract.

Neb. Rev. Stat. § 68-1721 (Reissue 1996).

Education is one of the ways that a principal wage earner in a recipient family can become self-sufficient. In furthering this intent by the Legislature to include education, the DHHS promulgated 468 NAC 2-020.06B, which sets out some of the educational requirements of recipients of ADC:

Education activities are: high school education, GED, Adult Basic Education (ABE) which is basic and remedial education designed to help an individual achieve a basic literacy level (i.e., the equivalent of an eighth grade education), and English as a Second Language (ESL).

There is a separate regulation that deals with postsecondary education:

Post-secondary education is limited to that which is directly related to the fulfillment of an individual's vocational goal. The participant can participate in post-secondary education for up to 24 months. The case manager should encourage the client to begin a job search during the last months of his/her educational program. Post-graduate programs may not be approved in the Self-Sufficiency Contract. A Post-secondary education program cannot be included in the Self-Sufficiency Contract if the client has a skill that can be marketed and can be reasonably expected to provide a wage leading to economic self-sufficiency in the current, area-specific labor market and the client is physically, mentally and emotionally

able to utilize those skills through employment. A post-secondary education program that can be included in the Self-Sufficiency Contract should be for occupations that facilitate economic self-sufficiency. *In order for post-secondary education to be included in the Contract, the client should demonstrate that the education program will lead to economic self-sufficiency.* The client and case manager must have substantiating labor market information. The case manager may need to assist the client in this process. If post-secondary education is the only component in the Self-Sufficiency Contract, the client should be enrolled full-time in his/her course of study. Full-time enrollment is defined by the educational institution and/or program of study.

468 NAC 2-020.06B1 (emphasis added).

These regulations, promulgated by HHS, further the intent of the Legislature that the recipients of ADC are to become self-sufficient within twenty-four (24) months of the initial receipt of their assistance. In pursuing education, the recipient must be involved in a program that will lead to economic self-sufficiency, and, at the end of the term, have the appropriate education necessary to become self-sufficient.

A. Allowing Appellee, as an ADC Recipient, to Pursue Education Through the University of Nebraska-Lincoln, Without Actually Obtaining Her Degree, Is Not an Appropriate Educational Goal According to the Welfare Reform Act.

The Appellee wants to pursue her education at UNL, where she may eventually work as an art therapist. However, this is not an appropriate educational goal while receiving ADC benefits. The goal of the Legislature in creating the Welfare Reform Act

is plainly set out in the language of the statute. ADC benefits are only given for twenty-four (24) months to those recipients who complete a Self-Sufficiency Contract. The goal is to provide transitional support to those families who need assistance. The ultimate goal is to have the recipients actually achieve economic self-sufficiency within the twenty-four (24) month time period.

While obtaining post-secondary education is a permissible goal of the recipient, it does not include allowing a recipient to blindly take college courses for two years. The education must be on a track to economic self-sufficiency. While the Appellee has a goal of becoming an art therapist, she cannot obtain the kind of self-sufficiency required by the Legislature within the two year time frame. In fact, even after obtaining a bachelor's degree, the Appellee still would not be within the realm of practicing art therapy; she would need to continue with a master's degree in order to finish. This is approximating at least six years to complete the program. This cannot be what the Legislature intended in implementing the Welfare Reform Act. The Legislature wanted ADC benefits to be granted on a temporary, transitional basis. If the Appellee is allowed to pursue her proposed course of education at UNL, at the end of the two year time period, she would likely be in no better of a position to become self-sufficient than she was at the time of initial receipt of assistance. She would have done nothing, other than taking some college courses, to further her economic self-sufficiency.

The District Court held that having some college education is better than no college education. While this may be true, it is still not what the Legislature intended. First, if the Appellee could receive a final degree within the two year time frame, it would be in her

best economic self-interest to complete a program, rather than only getting two years into a program. Second, taking courses at UNL for the first two years of college would not adequately prepare the Appellee for any kind of self-sufficiency. In pursuing a four-year degree, there are many more requirements that must be fulfilled, including taking many more general courses. Within the first two years of a four-year degree program, the majority of these general courses need to be taken, before the upper-class courses that are more intensive may be taken. The Appellee would not get much, if any, of her specialty courses taken by the time her ADC grant is expired. This would leave her in no better of a position than when she first applied for assistance.

If the Appellee went through a program that could be completed within two years, she would have the skills necessary to perform at a higher level than before she entered the ADC program, and would have a better chance of becoming self-sufficient. She would have a marketable tool in order to pursue a career that she could not have pursued without her degree. Further, if the Appellee had already completed some of her education at UNL, and could complete her degree within the two year time limit, she would be able to do so while receiving ADC benefits.

The District Court held the Defendants mistakenly equated self-sufficiency with a degree or diploma. However, this is not mistaken. It makes no sense to require a recipient to become self-sufficient within the two year time limit, yet not require them to do anything substantial towards that goal. While some college education may help to an extent, it is not going to give the Appellee the same results as if she would complete a program within the two year time limit. Once she has taken some time to maintain self-sufficiency, the

Appellee can attend UNL, applying her associate's degree to her four-year degree, and finish out that way.

The District Court held that it recognizes the fact that at the end of this two year period there is nothing that would appear to prevent Kosmicki from pursuing her four year college degree rather than obtaining gainful employment if she so chooses. Although her cash benefits will have ended, it appears that she will be entitled to other welfare benefits, including child care. Regardless of whether she attends SEC or UNL, her cash benefits will end at the end of the 24 months and she will have to locate other means of support if she chooses to complete her four year degree (i.e. student loans, etc.).

District Court Opinion, p. 9.

The Court is acknowledging that taking two years of college at UNL will in no way ensure that the Appellee is self-sufficient at the end of the two year time limit. In saying that there is nothing to prevent the Appellee from continuing on to finish her degree, and continuing to receive portions of welfare, the Court is saying that it knows the Appellee will not be self-sufficient when her ADC benefits cease, and she will need to pursue other means to finish her degree, which include certain types of welfare. This is completely inconsistent with the Legislature's goal of temporary, transitional assistance, and it is speculation by the Court. If the Appellee obtains an associate's degree, she can obtain gainful employment within that field. If the Appellee would decide, after completing her associate's degree, that she would like to attend UNL to obtain a four-year degree, the Appellants cannot stop her from doing so. However, she will always have the associate's

degree to stand on after her ADC benefits have ceased. With two years of attending college at UNL, she has nothing other than "some college experience," most of which is general course work that does not train her for any kind of profession. The Appellee would really not have a choice but to finish her degree in order to find gainful employment. This would perpetuate her non-self-sufficiency, rather than assist her in becoming self-sufficient.

The Appellants realize that it is the Appellee's dream to become an art therapist. However, ADC benefits are not given to recipients to help them fulfill dreams. The ADC program is not a post-secondary educational grant-in-aid program. It is to help them get the basic sustenance they need to be able to become self-sufficient, and take care of their families on their own, without assistance. Allowing the Appellee to attend courses at UNL would not guide her on a two-year path to self-sufficiency, and therefore cannot be a part of her Self-Sufficiency Contract.

B. The Decision of the District Court Creates an Administrative Situation That Would Deny Clients Proper Notice of Applicable Standards, Promote Arbitrary and Capricious Decision, Require Speculation by Caseworkers, and Generally Promote a More Contentious Programmatic Climate.

The District Court basically holds that some college education is better than no college education, therefore the Appellee should be able to attend UNL. This idealistic approach, however well-intentioned, will not be able to be legally implemented by HHS. First, there would be no clear objective standard for the Employment First Program with regards to self-sufficiency. Instead of following clear guidelines, the caseworker would

have to evaluate each case separately to determine if what the participant is going into would be considered a self-sufficient area. The caseworker would have to consider the subject area the participant would like to study, determine if two years of some study in this field would be beneficial to the participant, and decide if ultimate self-sufficiency could follow from two years of study. This would require speculation and this may also change daily with the economic fluctuation of society, and will change for each participant, as their educational goals will be different. This is not a feasible approach for HHS to take. It would be difficult, if not impossible, to promulgate regulations that would constitute clear objective criteria, necessary for the legal implementation of the lower court's approach to this issue. There would necessarily be too much subjectivity involved in these kinds of decisions, leading to arbitrary and capricious casework decisions that would not be legally sustainable. A regulation or decision of an agency must be supported by competent evidence, and must be neither arbitrary, capricious, nor unreasonable. *Whitehead Oil Co. v. City of Lincoln*, 245 Neb. 680, 692, 515 N.W.2d 401, 409-10 (1994). If the standard is kept objective, at maintaining a degree or diploma, there is no need for the caseworker to determine if the education will be beneficial to the participant, because they will have obtained a degree or diploma. There is a clear, objective, particularized standard that each participant would have to follow in order to plan education as part of their Self-Sufficiency contract. This standard would be equal for each participant choosing education. This standard adequately puts all clients on notice of what criteria will apply in their cases thus preserving compliance with due process of law requirements.

Further, if the standards for education are constantly fluctuating, there would be no proper notice to the participants as to what standards that will apply in their cases. One participant may be allowed to take part in some college, while another participant would have to attend either community college, as their choice of study would not produce marked results in self-sufficiency. This would result in a Due Process and Equal Protection argument for certain participants. "The central meaning of procedural due process is that parties whose rights are to be affected are entitled to be heard, and, in order that they may enjoy that right, must first be notified." *Dannehl v. Dept. of Motor Vehicles*, 3 Neb. App. 492, 499, 529 N.W.2d 100, 105 (Neb. App. 1995). There needs to be a more objective standard that can be applied consistently to the self-sufficiency planning of participants in the Employment First program. This can only be accomplished by maintaining that a degree or diploma must be attained at the end of the two years, rather than just taking some college courses in the vague hope of possible self-sufficiency.

II.

THE SANCTION FOR NON-COOPERATION BY THE APPELLANTS WAS PROPERLY IMPLEMENTED.

According to the Self-Sufficiency Contract that the Appellee signed on May 12, 2000, she was to do an independent job search for a month. If she was unsuccessful, she was to attend Curtis and Associates as of June 19, 2000. The Appellee attended Curtis and Associates on June 22, 2000, but did not return. She did not return because she wanted to attend UNL. Patrick McClure, the Appellee's caseworker, said that she could not attend UNL, because she would not be finished with her degree within the twenty-four

(24) month time frame, but she could attend Southeast Community College to finish the degree she started at Western Nebraska Community College. The Appellee refused this education plan. As a result, Appellee received an Employment First sanction effective August 1, 2000. Mr. McClure was in compliance with all pertinent DHHS regulations when he notified the Appellee of her sanction and loss of benefits. The applicable regulations for this type of procedure are 468 NAC 2-020.08, which defines non-participation; 468 NAC 2-020.08B, which outlines the types of sanctions that are imposed; 468 NAC 2-020.08B2f, which explains the sanctions imposed for non-cooperation with Employment First; 468 NAC 2-020.08B2f(1), which provides that sanctions for failure to participate are in effect upon receipt of the notice; and 468 NAC 2-020.08B2f(2), which outlines the length of the sanction.

Non-participation with the Employment First program includes failing to keep appointments with another agency providing service to the client and for not meeting the terms of the Self-Sufficiency Contract. 468 NAC 2-020.08. If a client has not been fully participating in the program, the case manager must send the client a WP-5 form. 468 NAC 2-020.08B. The WP-5 form begins a process that is designed to resolve the non-participation issue. In this time, the client must show good cause for why he or she did not comply or resolve the issue. However, if it is obvious during this period that the client will not participate (which includes failing to keep another meeting), sanctions can then be imposed. 468 NAC 2-020.08B. If the client does not cooperate with the requirements of the Self-Sufficiency Contract, the sanction includes "loss of ADC cash assistance for the entire family as well as medical for the adult(s)." 468 NAC 2-020.08B2f.

The sanction is considered to be effective as of receipt of the notice, and the grant is reduced the first of the month following timely notice. 468 NAC 2-020.08B2f(1). In the case of a first imposition of a sanction, the sanction will last either for one month or until the client begins to cooperate, whichever is longer. 468 NAC 2-020.08B2f(2).

In the Appellee's case, because she refused to attend Curtis and Associates, Mr. McClure sent the Appellee a WP-5 form, dated July 5, 2000. Rather than show good cause for why she missed the meetings at Curtis and Associates, the Appellee said she would refuse to attend the program, and would neither honor her Self-Sufficiency Contract, nor sign a new Contract, unless it allowed her to attend UNL. The Appellee met with Mr. McClure on July 20, 2000 and signed a statement saying she refused to sign a Contract. On July 21, 2000, Mr. McClure sent the Appellee a notice of sanction, saying that the Appellee would lose her ADC payment and medical coverage beginning August 1, 2000. Mr. McClure followed all pertinent rules and regulations in sanctioning the Appellee after her non-compliance with her Self-Sufficiency Contract. The Appellee's sanction was properly implemented by Mr. McClure, and is therefore a valid sanction with which to be applied to the Appellee.

CONCLUSION

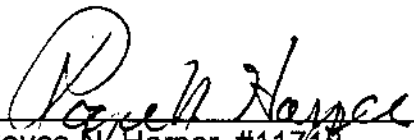
In conclusion, the Appellee was sanctioned because she was not participating within the terms of her Self-Sufficiency Contract, which is perfectly feasible. All the correct procedures were followed in implementing the sanction. The Appellee argues that she should be able to attend UNL as part of fulfilling her Self-Sufficiency Contract, but in fact, she cannot attend an educational institution where she will not become self-sufficient

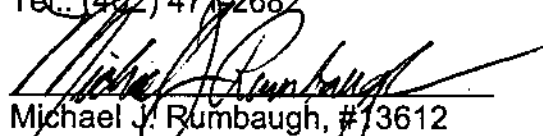
within two years of the initial receipt of ADC benefits. This is in compliance with the intent of the Legislature in creating the Employment First program, which is to provide temporary, transitional support for those families who need assistance for a period of two years, with the ultimate goal of self-sufficiency after the two year time period. Allowing the Appellee to attend a college that will take her at least four years to complete a program is not furthering the Appellee in becoming self-sufficient, and is only promoting irresponsibility. An educational program can only be implemented as a part of the Self-Sufficiency Contract if the program can be completed within the two year time period allowed for by the Legislature. It would not further the goal of the Legislature to encourage self-sufficiency if DHHS allowed ADC recipients to attend a college program that would guarantee they would not be any more self-sufficient than before beginning the program. Therefore, the Appellee's sanction should be upheld, and DHHS should not be required to re-negotiate the Appellee's Self-Sufficiency Contract.

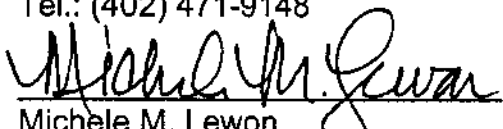
DATED this 15th of August, 2001.

STATE OF NEBRASKA, NEBRASKA
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STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

I, Amber R. Miles, being first duly sworn, depose and state that two copies of the brief in the above entitled case were served upon the Appellant by depositing said copies in the United States Mail, certified and return receipt postage-paid, addressed to Appellee's counsels of record, Sue Ellen Wall and Milo Mumgaard, 941 O Street, Suite 105, Lincoln, Nebraska, 68508.

DATED this 15th day of August, 2001.

Amber R. Miles
Affiant

Subscribed in my presence and sworn to before me this 15th day of August, 2001.



Lianne E. Garza
Notary Public