

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**MARILYN FORREST,**

**No. 28438-7-III**

**Appellant,**

**v.**

**Division Three**

**STATE OF WASHINGTON,  
DEPARTMENT OF SOCIAL &  
HEALTH SERVICES,**

**Respondent.**

**UNPUBLISHED OPINION**

Sweeney, J. — State food benefits are calculated, in part, by using a recipient’s gross income. WAC 388-450-0005(1), 388-492-0070(1). Gross income excludes medical reimbursements. 7 C.F.R. § 273.9(c)(5)(i)(C); 7 U.S.C. § 2014(d)(5); WAC 388-450-0015(1)(1). But it includes a recipient’s unearned income, including cash assistance like laundry benefits. WAC 388-450-0025(2), 388-473-0010(5). We agree with the administrative law judge (ALJ) that the appellant’s exceptional laundry benefit of \$136 per month was granted pursuant to WAC 388-440-0001 as cash assistance and not a medical reimbursement and that it, therefore, was properly included when calculating her

food benefit. We, then, affirm the ALJ's order.

#### FACTS

Marilyn Forrest receives medical and food benefits from the Department of Social and Health Services (DSHS). She receives the food benefits under the Washington State Combined Application Program. She also began receiving a maximum benefit of \$11.13 per month for laundry expenses in December 2005 pursuant to WAC 388-478-0050(2) (payment standards) and 388-473-0060 (laundry as an ongoing additional requirement).

Ms. Forrest sweats excessively. Her condition apparently requires that she change her clothing and bedding frequently, so frequently that she spends an average of \$131 a month to wash and dry about two loads of laundry a day.

In May 2008, Ms. Forrest asked DSHS to increase her laundry benefit to \$131 pursuant to WAC 388-501-0160. That regulation allows DSHS to make an exception to the rule that it will not pay for noncovered health care services. WAC 388-501-0160. Ms. Forrest claimed that her laundry expenses are for health care services because they arise from an undiagnosed medical condition and are necessary to maintain a sanitary living environment.

On July 30, 2008, DSHS informed Ms. Forrest that "an exception to rule has been approved to provide additional funds to you for laundry expenses." Administrative

Record (AR) at 103. And, it increased Ms. Forrest's cash assistance benefit to \$136 per month. That increase in cash assistance caused her food assistance benefit to decrease from \$61 per month to \$10 per month.

Ms. Forrest contested the decrease in her food benefit at an administrative hearing. She argued that the increase in her laundry benefit should not have affected her food benefit because the former benefit is medical reimbursement under WAC 388-501-0160 for laundry expenses arising from her medical condition and because medical reimbursements are excluded from income when calculating food benefits. The ALJ, however, affirmed the reduction of Ms. Forrest's food benefit. He concluded that DSHS granted Ms. Forrest's request for an increased laundry benefit under WAC 388-440-0001, a general regulation that authorizes DSHS to grant an exception to a rule in the WAC. He further concluded that the laundry benefit was cash assistance and, therefore, properly included as unearned income when DSHS calculated Ms. Forrest's food benefit. The superior court affirmed the ALJ's decision.

## DISCUSSION

### Standard of Review

The Administrative Procedure Act governs our standard of review. RCW 34.05.570. We will reverse the ALJ's decision if it is not supported by substantial

No. 28438-7-III  
Forrest v. State

evidence or if the ALJ “erroneously interpreted or applied the law.” RCW 34.05.570(3)(d), (e). We apply these standards directly to the agency record and give deference to the ALJ’s interpretation of the law. *Quadrant Corp. v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 154 Wn.2d 224, 233, 110 P.3d 1132 (2005); *Kraft v. Dep’t of Soc. & Health Servs.*, 145 Wn. App. 708, 716-17, 187 P.3d 798 (2008).

Which Regulation Authorized the Increased Laundry Benefit?

Ms. Forrest contends that the increase in her laundry benefit should not have decreased her food benefit because the former was granted as a medical reimbursement under WAC 388-501-0160 and medical reimbursements are excluded from income when calculating food benefits. 7 C.F.R. § 273.9(c)(5)(i)(C) (income exclusions); 7 U.S.C. § 2014(d)(5) (income excluded in computing household income); WAC 388-450-0015(1)(l) (income excludes all payments federal law excludes as income). She concedes, however, that “if the funds were granted under WAC 388-440-0001 . . . then this money would be considered ‘unearned income’ and would adversely impact the amount of food assistance Ms. Forrest would receive.” Appellant’s Br. at 9.

The ALJ concluded that WAC 388-440-0001 authorized her exceptional laundry benefit. We review de novo the ALJ’s interpretation of the law. *Quadrant Corp.*, 154 Wn.2d at 233; *Franklin County Sheriff’s Office v. Sellers*, 97 Wn.2d 317, 329-30, 646

No. 28438-7-III  
Forrest v. State

P.2d 113 (1982). Ms. Forrest bears the burden of proving that the ALJ applied the wrong rule. RCW 34.05.570(1)(a).

DSHS may grant an exception to any rule in the WAC when:

- (a) The exception would not contradict a specific provision of federal law or state statute; and
- (b) The client's situation differs from the majority; and
- (c) It is in the interest of the overall economy and the client's welfare; and
- (d) It increases opportunities for the client to function effectively; or
- (e) A client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.

WAC 388-440-0001(1). Ms. Forrest does not contend that her increased laundry benefit violates state or federal law. Nor does she contend that her need for an increased laundry benefit is anything but special, economical, and for her welfare. Indeed, her letter requesting more laundry money supports each requirement necessary to permit an exception under WAC 388-440-0001. *See* AR at 31. Ms. Forrest, therefore, fails to show the ALJ erred by concluding that WAC 388-440-0001 applied here.

She, nevertheless, maintains that DSHS granted her request under WAC 388-501-0160. DSHS may make an exception to its rule that it will not pay for a noncovered health care service if (1) the requested service is not excluded under state statute, (2) the service falls within accepted standards of good medical practice, and (3) the exception would be a cost-effective use of medical assistance program funds. WAC 388-501-0160(1)-(3). For DSHS to consider a

request for an exception under this rule, Ms. Forrest had to submit certain certifications from her doctor, other information and documentation about her unique condition, and the services necessary to treat it. WAC 388-501-0160(4). Her request, however, did not include the necessary documentation, information, and certification. Ms. Forrest submitted only a spreadsheet listing her monthly laundry expenses and a letter that explained her general symptom and its effect. She asserted, without support, that the laundry services were medically necessary. Ms. Forrest's showing, then, did not satisfy the administrative requirements. WAC 388-501-0160(4). And its deficiencies barred DSHS from even considering it as a request to pay for a noncovered health care service. WAC 388-501-0160(4).

Ms. Forrest claims that DSHS should have denied her request or asked for more information if the request was deficient. DSHS must approve a request, deny a request, or request additional information from the client within 15 days of receiving the request. WAC 388-501-0160(5). And DSHS simply granted Ms. Forrest's request. But it could not have done so under WAC 388-501-0160 without the information, documentation, and certification necessary to support the decision. WAC 388-501-0160(1)-(4).

Ms. Forrest has failed to show that the ALJ erroneously applied the law. RCW 34.05.570(1)(a). She concedes that the additional money granted under WAC 388-440-

No. 28438-7-III  
Forrest v. State

0001 is unearned income (Appellant's Br. at 9), which is included when calculating her food benefit. WAC 388-450-0025; WAC 388-473-0010(5). We, therefore, affirm the ALJ's conclusions that WAC 388-440-0001 authorized Ms. Forrest's exceptional laundry benefit and that DSHS properly included the laundry benefit when calculating Ms. Forrest's food benefit.

#### Attorney Fees

Ms. Forrest requests an award of attorney fees and costs. She is entitled to the award only if she prevails. RCW 74.08.080(3). And she has not prevailed here. We, then, deny her request.

Affirmed.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

---

Sweeney, J.

WE CONCUR:

---

Korsmo, A.C.J.

No. 28438-7-III  
Forrest v. State

---

Brown, J.