

General assistance payments ordered started

By Linda Lord-Jenkins
Tundra Times

A U.S. Circuit Court has reaffirmed his ruling that general assistance payments must be resumed to Alaska Natives and plaintiffs and attorneys in the case are confident that a lawsuit challenging the March, 1982 cutoff of those payments will be decided in their favor.

The 9th Circuit Court of Appeals in San Francisco on June 16 upheld its April ruling ordering a preliminary injunction which would direct payment of general assistance to 3,400 Alaska Natives.

Those payments were cutoff on March 31, 1982 by the Department of Interior which contends that it had the au-

thority under congressional mandate.

The Association of Village Council Presidents and individual plaintiffs sued the BIA, contending the cutoff was illegal because the legally required consultation with tribal authorities was not conducted and because the State of Alaska had not developed a

comparable program.

The State of Alaska has a welfare program that contributes only \$29 per month to needy people. The General Assistance program contributed up to \$700 for a family of six.

The AVCP also asked for a temporary injunction directing the GA payments be continued until the overall case was de-

cided but Judge James A. von der Heydt denied that, ruling that congressional authority didn't call for continuation of the program past April 1, 1982.

AVCP appealed that rule and the 9th Circuit issued its ruling.

The big question right now
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Attorneys confident on general assistance

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is how the judge's order directing the re-institution of the program, will be interpreted.

Attorney Monte Engel of the Alaska Legal Services said he will be meeting with U.S. attorneys this week to discuss implementation of the order.

Engel said the judge's order called for immediate resumption but the mechanics of re-starting the program might be difficult.

He said that it is possible that, because the GA payments were handled by individual Native organization — subcontractors — the contracts to handle the GA payments might have to be re-advertised and bid. That might take months.

Glen Robertson, Juneau spokesman for the BIA, said he isn't certain if the re-bidding process will be necessary. Robertson said that Juneau Area office is not setting policy on the GA payments and is awaiting word from Washington D.C. on the matter.

Robertson questioned whether there was money enough to pay for the payments.

When the program was cut off, \$1.7 million of the original appropriation remained. That money was returned to the central BIA social service program and re-distributed among other GA programs through the country.

"The money doesn't exist," said Robertson.

But Engel disagrees. "The 9th Circuit said the government has the money. It doesn't matter where (the Department of Interior) gets the money. They have to get it."

According to the order, the program must be instituted until the \$1.7 is spent, he said.

Engel is optimistic that the merits of the overall case will turn the final ruling in favor of the AVCP because of the wording in the temporary injunction order.

The government argued in supporting the immediate discontinuation of the program that Congress didn't have a legislative "history" which indicated it wanted the program to continue past April 1, 1982.

But the 9th Circuit's ruling cited many portion of hearing documents that said that when Congress discussed discontinuing the program, it was with the understanding that the state would develop a comparable program.

The ruling cited the following passages:

"The committee has increased the allowance for social services by \$5.7 million to partially meet the costs of welfare assistance in Alaska. The committee does not disagree with the premise that the State should assume these costs, but

a phase-out of Bureau support is required to ensure an orderly transition."

"The committee fully intends that the State absorb any fiscal year 1982 costs in excess of the \$5.7 million which has been provided.

The Circuit court order said "Other reports indicate that congressional members anticipated a transition period during which the State of Alaska would implement a comparable general assistance program. There were representations by the DoI officials during debate that Alaska would implement a comparable program. It is undisputed that Alaska did not have a comparable GA program

as prescribed and was not ready to implement one at the time of this termination," said the 9th Circuit ruling.

Engel said that this portion of the temporary order was significant because it addressed a major portion of the overall suit.

When the entire suit will come before the court is uncertain. The group of people represented has to be "certified" as a "class" of people having a same or similar complaint which can sometimes take years. Engel said that he doesn't think this will take a long time, however, because documents exist on who was receiving payments.

AVCP President Ivan M. Ivan said "It is what we have expected. We are confident that we will prevail when the case goes to trial. In the meantime we are pleased that needy Alaska Native families will no longer suffer the hardships that they have endured since the program was terminated."

He said AVCP is building a war chest to pay for legal expenses during the trial but added it is paramount that the state's congressional delegation assure that "sufficient funds are appropriated by Congress to continue the program during Fiscal Year 1984 and until we finally prevail in courts."