

Mental health agency ends policy on energy stipend

By ANEMONA HARTOCOLLIS

The state's office for mental retardation — and through it the Staten Island Developmental Center — has retracted a controversial policy for dispensing to persons under its care a one-time-only Special Energy Allowance.

Under general state policy, most eligible individuals — who include the elderly, the poor and the disabled — have received only a third of the \$150 energy allowance authorized by Congress last November.

But mentally retarded recipients will begin in May to collect the remaining \$100 under a newly formulated directive of the state Office for Mental Retardation and Developmental Disabilities (OMRDD).

Congress appropriated the energy allowance for individuals dependent on

Supplemental Security Income (SSI), a program of monthly payments to the elderly, poor, disabled and their offspring or survivors, administered by the Social Security Administration.

The stipend, described as a method of defraying rising costs of electricity, gas, oil and other cold-weather-related bills, was met immediately with conflicting claims.

Many SSI recipients are not independently responsible for their room, board and other needs; rather, they are assisted by guardians, who run the gamut from adult-home operators to foster parents. They expected the energy allowance to be remitted to them, a contingency for which Congress had not prepared.

"The feds were in such a hurry to get to press on what they were doing to help poor people with energy needs that they

didn't bother to think about the hundreds of thousands of people around the country who live in congregate care situations," Paul Litwak, deputy counsel to the Office of Mental Retardation, said yesterday. "Federal law is very unclear on how the allowance should be distributed."

State agencies through which SSI payments are channeled took the task of legal interpretation into their own hands in December, the month before energy allowance checks were to be delivered.

In a Dec. 21 memorandum, the state Department of Social Services took the lead by suggesting that residents of homes, which it licenses, should offer \$100 of each allowance to their facility operators — retaining only \$50 for personal use.

Among other agencies, the Office of

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Mental Retardation followed suit, issuing a memorandum five days later instructing that the allowance should be split between SSI clients and their state-assigned community residence operators, private school operators or family-care providers.

Calling the state's policy "a classic sellout of the poor," an attorney for 12 Long Island adult-home residents sued the Social Services Department in state Supreme Court.

The attorney, John Castellano, argued that the allowance was strictly personal and could be used to purchase items like warm winter clothing or footwear for SSI recipients who were not directly responsible for fuel bills. The government should negotiate additional methods to alleviate hardships experienced by guardians because of spiraling energy costs, he said.

Castellano contended that the state's recommendation to split the allowance was not being carried out voluntarily but through coercion by guardians of clients incapable of defending for their rights.

Castellano's class-action suit, which could be applied to SSI recipients statewide, failed and now is under appeal. Social Services officials continue to uphold their policy, affecting about 16,000 adult-home residents.

Mental retardation officials, however, have retracted their initial policy, essentially conceding Castellano's analysis. The Office for Mental Health, a separate state agency, has joined mental retardation officials in the turnabout, for shared reasons.

"One thing is very certain," Litwak explained. "That money belongs to the resident unless there is a specific rea-

son for billing him for that money."

Ultimately, guardians' energy bills may be determined as the specific reason. The extent of the guardian's energy burden, however, will not be assumed, Litwak said. Guardians will have the opportunity to submit documentation that a mentally retarded client is causing their energy bills to rise, and they will be compensated commensurately, he said.

Meanwhile, OMRDD will recover the \$100 of each energy allowance already turned over to guardians. This will be done by withholding \$100 from regular SSI payments beginning next month.

The current rate of SSI payments is \$334 monthly, Litwak said. Of the total, \$38 is allotted directly to the mentally retarded person for such personal needs as clothing and transportation. The remainder is considered reimbursement for guardian services.

Each \$100 recovered will be deposited in a mentally retarded client's personal savings account, OMRDD officials said.

The revised policy was outlined in a Feb. 20 memorandum from Mental Retardation Commissioner James Introne. In the memo, Introne explained that guardians will be able to file at an unspecified future date for augmented government reimbursement due to increased energy costs.

Litwak yesterday said the procedure for filing evidence of increased energy costs has not yet been set up.

Community-bound guardians of mentally retarded persons affiliated with the Staten Island Developmental Center, Willowbrook, were informed of the changed state policy in a letter from the Willowbrook institution dated April 7. The number of SSI recipients associated with the institution was not available yesterday.

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