



Do I have to repay my social assistance payments?

As a recipient of individual social assistance, can you act as a sponsor for your partner or your children so they might immigrate to Quebec? If yes, can the government require you to repay any increase in social assistance that you then receive under the family assistance program?

THE FACTS

A woman who is receiving individual social assistance, signs a contract of sponsorship so that her husband can immigrate to Quebec. When her husband arrives in the country, the woman files a claim for family social assistance. Some time later, the Ministry of Employment and Social Solidarity asks her to repay almost \$4,000, or, the increase in social assistance payments she has received since her husband's arrival. It is alleged that she took it upon herself to provide for the essential needs of her husband and that should her husband receive social assistance, she is required to repay that sum to the ministry. The Tribunal administratif du Québec welcomes the request for appeal and claims that the woman is not required to reimburse the payments. The Superior Court confirms the decision. The ministry appeals the case.

THE ISSUE

Must the woman reimburse the increase to the social assistance payments she has been receiving since her husband's arrival, a total of \$4,000?

THE DECISION

According to the Tribunal, the recipient is not required to reimburse the increase in social assistance payments that she has been receiving since her partner, the person she sponsored, has been living with her.

THE GROUNDS

Where a person signs a contract of sponsorship for one's partner or children, the person is not required to prove that they have financial resources. It is in fact, the government's policy to favour the reunification of the family unit. In this particular case, the fact that the woman was receiving social assistance when she signed the contract was not an issue. Once her husband arrived however, she was legally obliged to declare her new family status, which she did. As a result, she then received payments under the family social assistance program. It would not make sense to require her to repay an amount for which she was automatically eligible by virtue of the new family status. Further, the woman did not neglect her obligation to provide for the basic needs of her partner who began living with her on the day of his arrival. The Court of Appeal concluded that the woman is not required to repay the Quebec government the sum of \$4,000.

References

Québec (Procureur général) c. Tribunal administratif du Québec (C.A.) (Montréal) 500-09-011965-027, 2005/05/20, Judges: Baudouin, Dussault and Hilton (www.jugements.qc.ca)

An Act respecting income security (L.R.Q., c.S-3.1.1) art.35.1

An Act respecting administrative justice (L.R.Q., c. J-3), art. 14, 15 and 158

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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