

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Johnston School Committee

v.

Town of Johnston

.....

DECISION

Held: The town of Johnston must credit to the account of the Johnston School Committee, and immediately make available for the school department's use, those monies paid pursuant to R.I.G.L. 40-8-18 (c) (3) commonly referred to as Medicaid reimbursements.

DATE: April 1, 2003

Travel of the Case

On October 9, 2002 the attorney for the Johnston School Committee filed a “complaint and request for declaratory and injunctive relief” against Mayor William Macera, Mr. Leo Fox (the town’s finance director) and the Town of Johnston. The undersigned was designated to hear and decide this matter. It was treated as a request for hearing under R.I.G.L. 16-39-1, and determined to be a dispute in which the proper party to respond was the Town of Johnston. A letter acknowledging the request was sent to the parties on October 22, 2002, together with a couple of suggested dates for hearing. A follow up letter was sent by the hearing officer on December 2, 2002.

After some initial difficulties in securing a mutually convenient date for hearing, the matter finally proceeded to hearing on January 31, 2003. At that time, counsel for the town of Johnston filed an Objection and Motion to Stay proceedings before the Commissioner, together with a memorandum in support of its Motion. Thereafter, counsel for the School Committee filed an Objection to the Town’s Motion to Stay Proceedings, together with a supporting memorandum. Both parties, through counsel, have submitted briefs on the merits of this dispute, a process which concluded on March 21, 2003.¹

ISSUE

Is the Town of Johnston required to credit monies received by the Town Treasurer as Medicaid reimbursements under R.I.G.L. 40-8-18 (c) (3) and payments of school housing aid to the account of the Johnston School Committee and make such monies available to the School Committee for whatever expenditures are deemed appropriate?

Findings of Relevant Facts

- The Johnston School Committee has filed a complaint under R.I.G.L. 16-2-21.4 (b) in which it seeks additional appropriations from the Town of Johnston and takes the position that without such additional appropriation it lacks the ability to adequately run the schools for fiscal year 2002-2003 with a balanced budget and within the previously-authorized appropriation. Tr.p.25.
- The 2002-2003 fiscal year budget for the Town of Johnston includes Medicaid reimbursements as revenue to the Town, rather than school revenues. Tr.p. 25. In previous years, Medicaid reimbursements were allocated directly to the school department, constituted school revenue and were reflected in the school department audit in its capital projects account.Tr.p.26.

¹This matter has been expedited because of what we understand to be the request of Judge Fortunato who is hearing a matter involving these same parties in Providence County Superior Court.

- In exercising its audit review function, the Rhode Island Department of Education reviews audits of local school departments; the Department determines whether Medicaid reimbursements are included as revenue in school department accounts. Tr.pp.16-20.
- In fiscal year 2001-2002 school housing aid was treated as school revenue and credited to the capital projects account of the Johnston school department for the first time. Tr. p.27. This fact is shown in both the final audit for the school department and the Town's draft audit. Tr.pp. 26-27.
- The fiscal year 2002-2003 budget of the Town of Johnston shows school housing aid as town revenue, and does not allocate these funds directly to the school department. Tr. p.27.
- In paying out school housing aid to local communities pursuant to R.I.G.L. 16-7-41 the Department of Education reimbursement goes to the entity which has made the expenditure for the approved costs of school construction or the cost of debt service for such expenditures. In some communities this is the municipality, while in other cases it is the school committee. Tr.pp.20-21.

Positions of the Parties

The School Committee

In memoranda filed with the hearing officer, counsel for the Johnston School Committee argues that the immediate matter in an ongoing dispute between the School Committee and the Town is the appropriate disposition of reimbursements from Medicaid for services rendered to students by the Johnston School Department. The Committee seeks a “declaratory judgment” indicating that the Medicaid reimbursements are to be credited to the School Department, and to be expended in the School Committee’s discretion.²

In support of this argument, the School Committee notes that the Town’s treatment of these funds deviates from past practice in other fiscal years in which Medicaid reimbursements were credited as revenue to the School Department account, specifically the capital project account. Audit reports from as recently as the last fiscal year show that these funds were credited to and expended by the Johnston School Committee. In addition, the Johnston School Department is the municipal entity which actually provided these reimbursable services to its students and is by virtue thereof the “service provider” and, under federal law, entitled to reimbursement. Finally, under R.I.G.L. 40-8-18, entitled “Local education agencies as EPSDT providers, specifically subsection (c) (3), payments of federal Medicaid funds are to be made to the local education agency directly. This provision of state law goes on to provide that:

² although the School Committee identifies the “chief wrong” of the Town officials as an “accounting practice”, we infer from this that this matter involves more than just “debits and credits” and that it affects the actual monies available to the Johnston School Committee for expenditure during this fiscal year.

Payments made to the local education agency pursuant to this section shall be used solely for educational purposes and shall not be made available to local communities for purposes other than education. The local fiscal effort to support education referred to in subsection (d) herein shall not be reduced in response to the availability of these federal financial participation funds to the local education agency.

In response to the argument that the pending “Caruolo” complaint in Superior Court should preclude the Commissioner from going forward to address this issue, the School Committee takes the position that the Commissioner retains jurisdiction over all educational disputes except for those based on the overall adequacy of the school district’s funding. The dispute with respect to entitlement to Medicaid reimbursements is separate and distinct from a claim premised on the argument that the local appropriation for public schools is inadequate. If the General Assembly had intended to place all issues of finance as they relate to the public schools within the purview of the Superior Court, it could have done so, and clearly did not so intend with its passage in 1995 of the “Caruolo” bill, which amended R.I.G.L. 16-2-21.4.

The School Committee takes the position that the issues are separate and distinct, and the resolution of the dispute over Medicaid reimbursements will help reduce the budgetary shortfall³ experienced by the school district this year. Rather than prejudice either of the parties in the Superior Court proceedings, a decision from the Commissioner on the Medicaid issue will actually speed the resolution of this collateral litigation.

The Town of Johnston

Counsel for the Town of Johnston argues that the Commissioner is without jurisdiction to consider the petition filed by the Johnston School Committee. Even if there is jurisdiction, he argues in the alternative that any decision in this matter should be deferred until the Superior Court has acted on the complaint pending in that Court, since it will resolve the issue of the adequacy of funding available to the school department for this fiscal year. In support of this position, counsel notes that the petition filed on behalf of the school department presents to the Commissioner various budgetary and operational issues. With respect to budgetary issues, the town indicates that:

The issues presented to the Department in this petition are part of a budget dispute which has continued since June 2002. Clearly these matters will be the subject of hearings in the Superior Court as part of the claim filed by the Johnston School Committee.

³ the budgetary shortfall argued to result from the deprivation of Medicaid reimbursements is approximately \$750, 000.00.

Implicitly, the Town argues that the School Committee has elected its remedy and sought to press its claim for additional funds before the Superior Court.

In addition, the Town argues that R.I.G.L. 16-2-21.4 requires that all budgetary issues be litigated in Superior Court, not just the overall adequacy of the funds appropriated or otherwise received, but entitlement to specific revenues. The Town, citing the Rhode Island Supreme Court decision in Beil v. Chariho School Committee, 667 A.2d 1259, notes that the effect of the Caruolo Act is that “the ultimate decision-making power with respect to school budget disputes will be vested in the Superior Court...”. Counsel argues that this petition improperly places budgetary issues before a hearing officer in the Department of Education.

As to the merits of the claim that Medicaid reimbursements have wrongfully been withheld from the School Committee, the Town argues that these funds are included this fiscal year in the total allocation to the School Department which appears on line 1910 of that budget. Therefore, even though the items in dispute, Medicaid reimbursements and school housing aid, are listed as new revenue accounts of the town, and are not directly allocated to the school department, they are indirectly allocated and contained in this year’s total projected school budget. Counsel argues that the increase in budgeted school expenditures over last year’s school budget exceeds two million dollars, so that any reallocation of monies previously categorized as separate school revenue (totaling less than one million dollars) has not prejudiced the school department, i.e. the schools still have a net increase of approximately one million dollars with which to operate.

Counsel submits that the re-characterization of these disputed funds has not changed the “bottom line” of funds available for the Johnston School Committee this year. If they had been accounted for as the school committee argues they should be, it does not necessarily follow that there would be an increase in funds available for school operations. Had these disputed funds been accounted for in a different fashion and been shown as school revenue, the town would simply have allocated \$918,606.00 less to the school department in its overall allocation. The method chosen by the Town in showing these revenues as town revenues is also legitimate from an accounting perspective and is a method of reporting such revenue that has been followed by other communities in Rhode Island. Therefore, the petition filed by the School Committee should be dismissed.

DECISION

The Johnston School Committee has placed before the Commissioner for resolution the issue of its legal entitlement to certain revenue which has not been directly allocated to it this year and in fact is categorized as town revenue in the final budget adopted by Johnston town officials for fiscal year 2002-2003. The dispute is not, as we understand it, limited to the accounting practices followed by the town with respect to this money, but the real availability of these funds to meet school department expenses this year. We are not presented with the question of the adequacy of overall funding of

school operations or the more delicate question of the sufficiency of the local appropriation to support Johnston schools, a matter before the Superior Court, but rather the entitlement of the School Committee to two discrete components of an overall budget. The School Committee's complaint in the Superior Court under the Caruolo Act's provisions to increase the local appropriation for schools will undoubtedly be affected by our decision in this matter, but it is our opinion that the Commissioner retains the general jurisdiction set forth in R.I.G.L. 16-39-1, including jurisdiction over financial disputes, save for the specific dispute carved out under the provisions of R.I.G.L. 16-2-21.4. In that dispute, the issue is the adequacy of the school budget and the remedy sought is an increase in the local appropriation for public schools.

In proceeding before the Commissioner, the School Committee seeks an order that certain revenues received by the Town be allocated to it, to expend as it sees fit. These revenues are Medicaid reimbursements and school housing aid.⁴ With respect to school housing aid, the statute, R.I.G.L. 16-7-41 indicates that payments by the state shall be made to "each community" and be applied to the cost of school housing. While "community"⁵ is defined as a "city, town, or regional school district established pursuant to law and/or the department of children, youth, and families", evidence in this record indicates that in those instances in which the cost or debt service expense for school construction/renovation is contained in the school budget⁶, the corresponding distribution of school housing aid is made to the School Committee, rather than the municipality.

In the case before us, while there is some evidence that in the fiscal year 2002, "for the first time," school housing aid was included as school department revenue⁷ we have no evidence that the Johnston school department traditionally pays or currently pays the costs of school construction or debt service. Testimony established that the entity which pays school housing costs varies throughout Rhode Island's communities. Furthermore, testimony clearly identified payment of the costs to be the basis for a direct payment to a school committee. In light of the statute controlling the payment of these monies, and the evidence in this record, we have no legal basis to reallocate school housing aid which has been paid to the Town of Johnston during fiscal year 2002-2003. We cannot conclude from the facts we have in the record with respect to school housing aid that the Johnston School Committee has, in any given year or years, shouldered the expense which would customarily be borne by the municipality. It may very well be that the payment of expenses associated with school housing has varied over the years or from year to year- the record does not contain this information. While there is evidence in the

⁴ Claims of legal entitlement to specific monies received by a town treasurer as the fiscal agent for the School Committee are not unusual in this forum. Many times these disputes arise in the situation in which a school committee has taken the position that its total funded budgetary allocation for the fiscal year is insufficient to operate the required school program and meet contractual obligations.

⁵ found in R.I.G.L. 16-7-16 (5)

⁶ a practice which was questioned successfully by the Woonsocket School Committee in its dispute with the City of Woonsocket, decision of the Commissioner dated February 21, 2000. Prior to making its claim for monies previously withheld from its appropriation to pay debt service, the School Committee had requested in the alternative that the City pass through to it school housing aid retained by the City of Woonsocket. This request had been rejected, and the School Committee then sought to eliminate the debt service on school housing costs included in the school budget over its objection.

⁷ as verified by both the final school department audit and the draft audit of the Town of Johnston.

record that in fiscal 2002 school housing aid was categorized as school, rather than town, revenue “for the first time”, this may have been the result of an agreement between these two entities and not due to the fact that the school department had previously been responsible for school housing costs. The School Committee has not proven its entitlement to these monies and an order directing their reallocation is therefore denied.

With respect to its claim to Medicaid reimbursements, the School Committee has clearly proven its entitlement. The language of the applicable statute identifies the School Department as the service provider as well as the entity to which reimbursement is to be made. Especially given the amendments which were made to R.I.G.L.40-8-18 (c) (3) by the General Assembly in its 2000 session, which substituted “local education agency” for “local community” as the entity to which payments are to be made, no other construction of this language is reasonable.

It may be true⁸ as counsel for the Town of Johnston has argued, that the total budget of the school department grew in fiscal year 2002-2003 by an amount which substantially exceeds the revenue redirected this year to the Town’s accounts. It may also be, but is not necessarily, true that if the revenue from Medicaid reimbursements had been directly allocated to the school department, the Town could and would have reduced the amount of any increase in its local appropriation to schools. These are issues which involve more complex questions than those presented by this appeal. Resolution of these issues necessarily takes into account the overall adequacy of the school budget, as well as the maintenance of effort requirements imposed on the Town of Johnston by Section 40-8-18 and other provisions of law. These issues will undoubtedly be resolved in the matter presently placed before the Superior Court under the “Caruolo Act”.

The Town of Johnston is hereby ordered to restore the Medicaid reimbursements it has received to date during this fiscal year to the Johnston School Committee, by reallocating these funds as school department revenue, and to credit directly to the school department’s revenue account all future Medicaid reimbursements it receives. The record does not reflect the exact amount of the monies in controversy, but if the parties cannot agree upon this amount, further hearing will be held forthwith.

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

April 1, 2003
Date

⁸ These facts were documented in the Supplemental Memorandum of the Town of Johnston, but not in evidence at the hearing.