

**REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF THE PUBLIC PROTECTOR ACT, 1994**



**PUBLIC PROTECTOR  
SOUTH AFRICA**

**REPORT NO 27 OF 2008/09**

**REPORT ON AN OWN INITIATIVE INVESTIGATION INTO AN ALLEGATION THAT THE SOUTH AFRICAN SOCIAL SECURITY AGENCY SUSPENDED THE SOCIAL SECURITY GRANT OF MS N S MPHEPHU WITHOUT GOOD CAUSE**

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## EXECUTIVE SUMMARY

- (i) The Office of the Public Protector (OPP) investigated on an own initiative the plight of Ms N S Mphephu (the Beneficiary), whose old age grant was suspended by the South African Social Security Agency (SASSA) for almost three years because she allegedly shared an identity number with someone in the Free State Province. The Beneficiary's plight was reported by the *Capricorn Voice* newspaper of 9-11 April 2008.
- (ii) The OPP made the following findings:
  - (a) The Beneficiary's old age grant was suspended because it was alleged that she shared an identity number with someone in the Free State Province;
  - (b) The Beneficiary was provided with food parcels for three months only when SASSA indicated that it was sorting out the problem;
  - (c) The Beneficiary was issued with a new identity document, bearing the same identity numbers;
  - (d) There was no valid reason for the suspension of the Beneficiary's grant, and therefore the conduct by SASSA was irregular;
  - (e) It took SASSA almost three years to reinstate the grant, and no alternative means of subsistence was put in place to sustain the Beneficiary and her family while the grant was suspended as it is the practice in cases of this nature;
  - (f) The Beneficiary's grant was reinstated in September 2008, after the intervention by the OPP. She received the arrears of R29 820-00; and
  - (g) SASSA did not pay interest on the arrears amount of R29 820-00.
- (iii) The following recommendations were made:

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- (a) The Regional Executive Manager of SASSA Limpopo must appoint a task team, as undertaken, to investigate the issue of suspended grants due to the sharing of identity numbers, with immediate effect;
  - (b) When a grant is suspended, SASSA should provide the recipient with food parcels for the entire period of the investigation in order to sustain him/her while it resolves the problem that led to the suspension of the grant;
  - (c) SASSA should device means to finalise its investigations within three months after the suspension of a grant; and
  - (e) SASSA should pay interest on the arrear amount of R29 820-00 at the prescribed rates.

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**REPORT ON AN OWN INITIATIVE INVESTIGATION INTO AN ALLEGATION THAT THE SOUTH AFRICAN SOCIAL SECURITY AGENCY SUSPENDED THE SOCIAL SECURITY GRANT OF MS N S MPHEPHU WITHOUT GOOD CAUSE**

**1. INTRODUCTION**

1.1 This report is submitted in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994. The report is submitted to the Minister of Social Development, the Director-General of the Department of Social Development; the Chief Executive Officer of the South African Social Security Agency, and the Regional Executive Manager of the South African Social Security Agency, Limpopo Province.

1.2 It deals with an own initiative investigation in which it was alleged that the South African Social Security Agency (SASSA), Limpopo Province, had suspended the social grant of Ms N S Mphephu (the Beneficiary) of Thononda Village, Vhembe District, without any explanation or justification.

**2. THE COMPLAINT**

2.1 In May 2008 the Office of the Public Protector (OPP) noticed an article in the *Capricorn Voice* newspaper in which it was reported that SASSA Limpopo had suspended the old age grant of the Beneficiary. The Beneficiary is 86 years old.

2.2 The grant was allegedly suspended during October 2005, but the Beneficiary was not informed thereof, and kept on visiting the pay point for almost three years and returning home empty-handed.

2.4 The Beneficiary allegedly attempted on numerous occasions to resolve the matter with the SASSA officials in the Thohoyandou and Giyani offices without success.

2.5 It was only after the intervention by the OPP that it was revealed that the grant was suspended because the Beneficiary shared an identity number with someone else in the Free State Province.

### **3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR TO INVESTIGATE THE COMPLAINT**

3.1 The institution of the Public Protector was established in terms of Chapter 9 of the Constitution, 1996, as one of a number of bodies that support constitutional democracy. The operational requirements of the Office of the Public Protector are provided for by the Public Protector Act, 1994.

3.2 Section 6(4)(a) of the Public Protector Act, 1994 provides that the Public Protector shall be competent to investigate, on his or her own initiative or on receipt of a complaint, any alleged

*(v) act or omission by a person in the employ of government at any level, or a person performing a public function, which result in unlawful or improper prejudice to any other person.*

3.3 This matter therefore falls within the ambit of the jurisdiction of the Public Protector to investigate.

#### **4. THE INVESTIGATION**

The investigation was conducted in terms of section 7 of the Public Protector Act, 1994 and comprised of the following:

- 4.1 Consideration of the *Capricorn Voice* report;
- 4.2 Consultation with the Beneficiary, SASSA and the Department of Home Affairs; and
- 4.3 Consideration of the relevant legislation, namely, the Constitution, Social Assistance Act, 1994 and South African Social Security Act, 2004.

#### **5. VISIT TO SASSA SERVICE POINT**

- 5.1 A visit was made to SASSA service point in Thohoyandou to enquire about the suspension of the grant. SASSA officials indicated that the grant was suspended when it was discovered that the Beneficiary shared an identity number with someone else who was also receiving a grant. They also indicated that the suspension was carried out to prevent fraud when SASSA was investigating the matter.
- 5.2 The officials further conceded that they were not sure if any arrangements were made for the Beneficiary to receive food parcels while the investigation went on. However, they conceded that it was practice to provide a beneficiary with food parcels for six months after the suspension of his or her grant.
- 5.3 SASSA officials pointed out that the Department of Home Affairs was responsible for dealing with the problem of sharing of identity numbers and that SASSA could do nothing until this was sorted out.

## **6. CONSULTATION WITH THE DEPARTMENT OF HOME AFFAIRS**

A visit was paid to the Department of Home Affairs service point in Thohoyandou to enquire about the identity document of the Beneficiary. The officials acknowledged the problem experienced by the Beneficiary in sharing an identity number with someone else, and indicated that the problem was resolved on 24 April 2008 when a new identity document was issued to her.

## **7. MEETING WITH THE REGIONAL EXECUTIVE MANAGER OF SASSA**

- 7.1 As this matter was not the first one concerning the problems caused by the sharing of identity numbers the OPP decided to convene a meeting with the new SASSA Limpopo Regional Executive Manager.
- 7.2 The Regional Executive Manager acknowledged the problem caused by the sharing of identity numbers by some beneficiaries. She was equally perturbed that it takes a long time for SASSA to resolve these matters, and that the number of similar incidents is very high, and one district was alleged to have 44 unresolved cases.
- 7.3 The Regional Executive Manager undertook to appoint a task team with immediate effect to investigate the matter. The team will investigate the causes of the problems and make recommendations on how to resolve the problem. The envisaged team will compose of stakeholders such the Department of Home Affairs, Human Rights Commission, OPP and other relevant stakeholders.



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## **8. LEGISLATIVE FRAMEWORK GOVERNING SOCIAL GRANTS**

### **8.1 The Constitution of the Republic of South Africa, 1996**

8.1.1 Section 27(1)(c) of the Constitution provides that everyone has the right to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

8.1.2 Section 27 (2) provides that the state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right.

### **8.2 Social Assistance Act, 1994**

8.2.1 Section 10 of the Social Assistance Act, 1994, stipulates that a person is eligible for an older person's grant if, in the case of a woman, she has attained the age of 60 years; and in the case of a man, he has attained the age of 65 years.

8.2.2 The Beneficiary qualified in terms of age, and she was already receiving the grant when it was suspended by SASSA.

### **8.3 South African Social Security Act, 2004**

The South African Social Security Act, 2004 established the South African Social Security Agency, which has as one of its objectives, the management, administration and payment of social security. The Limpopo SASSA offices are

responsible for the management, administration and payment of the beneficiary's social security grant.

## **9. OBSERVATIONS AND FINDINGS**

- 9.1 The Beneficiary's old age grant was suspended because it was alleged that she shared an identity number with someone in the Free State Province.
- 9.2 The Beneficiary was provided with food parcels for three months only when SASSA indicated that it was sorting out the problem.
- 9.3 The Beneficiary was provided with a new identity document, bearing the same identity number.
- 9.4 There was no valid reason for the suspension of the Beneficiary's grant.
- 9.5 It took SASSA almost three years to reinstate the grant, and no alternative means of subsistence was put in place to sustain the Beneficiary and her family while the grant was suspended as it is the practice in cases of this nature.
- 9.6 The Beneficiary's grant was reinstated in September 2008, after the intervention by the OPP. She received arrears of R29 820-00.
- 9.7 SASSA did not pay interest on the arrear amount of R29 820-00.

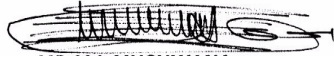
## **10. RECOMMENDATIONS**

It is recommended in terms of section 182(1)(c) of the Constitution and section 6(4)(c)(ii) of the Public Protector Act, 1994 that:

- 10.1 The Regional Executive Manager of SASSA Limpopo must appoint a task team, as undertaken, to investigate the issue of suspended grants due to the sharing of identity numbers, with immediate effect;
- 10.2 When a grant is suspended, SASSA should provide the recipient with food parcels for the entire period of the investigation in order to sustain him/her while it resolves the problem that led to the suspension of the grant;
- 10.3 When suspending a grant, SASSA must inform the affected individual of its action, the reasons thereof, as well as the time period for the suspension, in writing.
- 10.4 SASSA should device means to finalise its investigations within three months after the suspension of a grant; and
- 10.5 SASSA should pay interest on the arrear amount of R29 820-00 at the prescribed rates.

## **11. MONITORING**

The OPP will monitor the implementation of the above-mentioned recommendations bimonthly.



**ADV ML MUSHWANA**

**PUBLIC PROTECTOR OF THE  
REPUBLIC OF SOUTH AFRICA**

**DATE:**

Assisted by: L Khoza: Investigator

N Mukwevho: Limpopo Provincial Representative