

STATE OF NEW YORK
DEPARTMENT OF SOCIAL SERVICES

REQUEST May 19, 1992
CASE No.
CENTER No. Suffolk
FH No. 1826809N

In the Matter of the Appeal of :
: B L :
: :
: DECISION
: AFTER
: FAIR
from a determination by the Suffolk County : HEARING
Department of Social Services :
:
:

JURISDICTION

This appeal is from a determination by the local Social Services Agency relating to the adequacy of Emergency Assistance to Adults provided to the Appellant.

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of the Regulations of the New York State Department of Social Services (Title 18 NYCRR, hereinafter Regulations), a fair hearing was held on June 3, 1992, in Suffolk County, before Richard S. Levchuck, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

B L , Appellant; Jane C. Reinhardt, Esq., Appellant's Representative; P S , Witness

For the Local Social Services Agency

Christine Milazzo, Agency Representative

FACT FINDINGS

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. The Appellant, a recipient of Supplemental Security Income, applied for a grant of Emergency Assistance to Adults on April 17, 1992 in order to prevent eviction for non-payment of rent for the month of April, 1992.

2. The Appellant pays a monthly rent in the amount of \$415.00. The Appellant pays separate from his rent for electric heat. The Appellant has resided at his current residence since November of 1985.

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3. The Appellant advised the Agency at the time of his application that his wallet had been stolen and that someone had obtained his personal identification number for his automatic teller machine card and had withdrawn funds contained in his savings account that he was going to use to pay his rent for April, 1992.

4. On April 16, 1992, the Appellant's landlord obtained a judgment of eviction against the Appellant for non-payment of rent in the amount of \$415.00 for the month of April, 1992 plus attorney's fees in the amount of \$300.00 and late charges in the amount of \$41.50.

5. On April 17, 1992, the Agency determined to provide the Appellant with a grant of Emergency Assistance to Adults in the amount of \$309.00. The Agency's notice advised the Appellant that he would receive the sum of \$309.00 if he could obtain the remainder of the amount that he owed his landlord from other agencies.

6. The Appellant borrowed \$106.00 from his father and borrowed the remaining sum of \$341.50 from the Federation of Organizations for the New York State Mentally Disabled. The Appellant paid his landlord the amount due pursuant to the judgement obtained by him.

7. On May 19, 1992 the Appellant's representative requested this hearing to review the Agency's determination to provide the Appellant with a grant of Emergency Assistance to Adults in the amount of \$309.00.

ISSUE

Was the Agency's determination to provide the Appellant with a grant of Emergency Assistance to Adults in the amount of \$309.00 correct?

APPLICABLE LAW

Emergency Assistance for Aged, Blind and Disabled Persons (EAA) may be provided for aged, blind and disabled persons who are eligible for or are receiving federal Supplemental Security Income (SSI) and/or additional State payments and who have emergency needs that cannot be met by the regular monthly benefit under the SSI Program and the additional State payments program and which, if not met, would endanger the health, welfare or safety of the individual. Social Services Law Sections 300 and 302; 18 NYCRR 397.4.

Where necessary to prevent eviction, payment of rent is authorized for the four month period prior to the month in which such person initially applied for SSI or additional State payments or for EAA, if, in the judgment of the Agency, other appropriate housing accommodations are not available in a particular area. Social Services Law Section 303 and Department Regulations at 18 NYCRR 397.5

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An Agency is not authorized to grant EAA for the four month period prior to application if the person already had received such a grant within the preceding twelve months, unless such additional assistance is recommended by the local Agency and approved by the Department. Social Services Law Section 303; 18 NYCRR 397.5(1)(3).

DISCUSSION

The evidence in this case establishes that the Agency determined to provide the Appellant with a grant of Emergency Assistance to Adults in the amount of \$309.00, which is the maximum Public Assistance shelter allowance for a single person residing in Suffolk County with heat included in his rent. The Agency contended that it would have been less expensive to provide the Appellant with new housing and moving expenses than to pay an additional amount to the Appellant. The Agency presented four housing referrals which it contended were available to the Appellant during the month of April, 1992, all of which had a monthly rent in the amount of \$309.00 with heating costs included.

However, the Agency's contention is without merit in that it determined to provide the Appellant with Emergency Assistance to Adults despite its position that alternate housing would be less costly for the Appellant. In addition, it is noted that the provisions of 18 NYCRR 397.5(1)(3) do not contain a limit on the amount of a grant of Emergency Assistance to Adults that may be issued to prevent eviction.

The Appellant testified that he was not offered any alternative housing, and that he borrowed the funds in order to prevent eviction from his father and a community-based organization, and that he must repay the funds that he borrowed. The Appellant's testimony was plausible, persuasive and was corroborated by a representative of the organization who loaned him the funds and who assisted him in applying for Emergency Assistance to Adults. The Agency incorrectly determined to provide him with a grant of Emergency Assistance to Adults in the amount of \$309.00.

DECISION AND ORDER

The determination of the Agency to provide the Appellant with a grant of Emergency Assistance to Adults in the amount of \$309.00 is not correct and is reversed.

1. The Agency is directed to provide the Appellant with a supplemental grant of Emergency Assistance to Adults in the amount of \$447.50.

As required by Department Regulations at 18 NYCRR 358-6.4, the Agency must comply immediately with the directives set forth above.

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DATED: Albany, New York

JUN 23 1992

NEW YORK STATE DEPARTMENT
OF SOCIAL SERVICES

By



Commissioner's Designee