
In the Matter of the Appeal of :

R B : DECISION
: AFTER
from a determination by the Nassau County Department : FAIR
of Social Services (hereinafter called the agency) : HEARING

A fair hearing was held at Mineola, New York, on January 22, 1982, before William R. Meyers, Administrative Law Judge, at which appellant, appellant's representative and a representative of the agency appeared. The appeal is from a determination by the agency relating to the discontinuance of a grant of Aid to Dependent Children. An opportunity to be heard having been accorded all interested parties and the evidence having been taken and due deliberation having been had, it is hereby found:

1. Appellant currently is in receipt of a regularly recurring grant of Aid to Dependent Children on behalf of her two minor children as payee only. Appellant and her husband, who is not the father of appellant's children, reside in the home but have not been included in the Public Assistance grant.

2. The agency determined on December 16, 1981, to discontinue appellant's grant effective December 26, 1981, on the grounds that all four persons in the household were now included in the budget and that the income of her husband was deemed available to meet the needs of his family.

On December 9, 1981, an Administrative Directive was issued advising all local districts of the procedures mandated for the implementation of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35)(Chapter 1053 of the law of 1981). Said Administrative Directive provides the procedures to be followed regarding stepparent income. Additionally, local districts were advised that this provision was to be effective January 1, 1982. Local districts were further directed to utilize the mandated notice in implementation of the changes set forth in the Administrative Directive. Here, the agency not only did not use the notice mandated but implemented the determination prematurely and incorrectly. Therefore, the actions of the agency must be viewed as improper. The agency is directed to continue to provide assistance and to make another determination utilizing the procedures and notice set forth in 81 ADM 55.

DECISION: The determination of the agency is not correct and is reversed. The agency must immediately comply with the directives set forth above as required by Section 358.22 of the Department's Regulations.

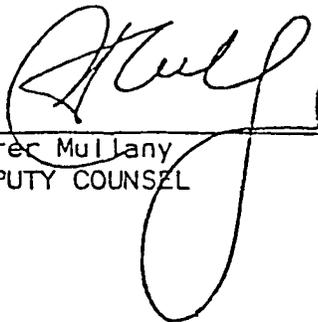
DATED: Albany, New York

MAR 11 1982



Barbara Blum
COMMISSIONER

BY



Peter Mullany
DEPUTY COUNSEL