

In the Matter of the Appeal of :  
C S : DECISION  
from a determination by the New York City Department : without a  
of Social Services (hereinafter called the agency) : FAIR  
: HEARING

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Whereas, pursuant to the provisions of Section 358.19 of the Regulations of the State Department of Social Services, a decision without a hearing having been requested by the appellant to review determinations by the agency relating to the adequacy of a grant of Aid to Dependent Children and both parties having had the opportunity to submit documentary evidence and due deliberation having been had, it is hereby found:

1. The appellant is in receipt of an ongoing grant of Aid to Dependent Children.
2. By letter, dated January 4, 1984, the appellant's representative requested a hearing to review the agency's determination to reduce the amount of appellant's Aid to Dependent Children grant to recover overpayments of assistance. Specifically, the appellant's representative seeks review of the adequacy of the agency's Notices of Intent to reduce the appellant's grant.
3. By notice, dated December 22, 1983, the agency determined to reduce the appellant's grant to recover an overpayment of \$565.00, which had resulted from "concealment". No other explanation for the action was contained in the notice and no regulatory or statutory citation was included.
4. By notice, dated December 24, 1983, the agency determined to reduce the appellant's grant to recover a further overpayment of \$1,476.15, which had resulted from "contested reduction". Again, no further explanation for the action was contained in the notice, nor was any statutory or regulatory citation included.

5. Although notified by this Department on February 8, 1984, and March 29, 1984, of this request for a decision without a hearing, and that failure to respond would result in the issuance of a decision based on the information currently available in our file, no documentary evidence has been submitted by the agency.

Pursuant to Section 358.8(a) of the Regulations of the State Department of Social Services, in cases of any proposed action to reduce assistance payments, timely and adequate notice detailing the reasons for the proposed action shall be sent to the recipients. Under this requirement, adequate notice means a written notice that includes details of reasons for the proposed actions, as well as the recipient's fair hearing rights. Section 205.10(a) of 45 C.F.R. further requires that in cases involving Aid to Dependent Children, the notice shall include a reference to the specific regulations supporting the action taken.

In this case, although given full opportunity to respond to the appellant's request for review of the adequacy of the Notices of Intent issued to the appellant, the agency failed to submit any documentation in support of the notices. The uncontroverted evidence presented by the appellant in this case establishes that the agency notices of December 23, 1983, and December 24, 1983, did not contain details of the reasons for its proposed actions, and contained no reference to the specific regulations on which the actions were based. Therefore, the agency has failed to establish the adequacy of the notices in question, and its determinations cannot be found correct. The agency is directed to take no further action on its notices of December 23, 1983, and December 24, 1983. Should the agency determine to take further action to recover any overpayments of assistance, proper notices must be sent to the

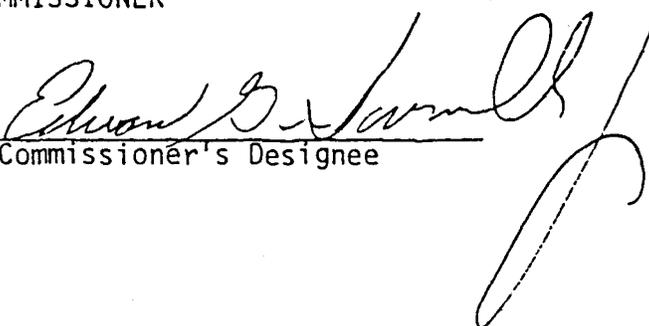
DECISION: The determination of the agency is not correct and is reversed. The agency must immediately comply with the directives set forth above as required by Section 358.22 of the Department's Regulations.

DATED: Albany, New York

APR 20 1984

CESAR A. PERALES,  
COMMISSIONER

BY

  
Commissioner's Designee