

in the Matter of the Appeal of

P S

from a determination by the New York City
of Social Services (hereinafter called the agency)

Department

:
DECISION
: AFTER
FAIR
HEARING

A fair hearing was held at 80 Centre Street, New York, New York, on April 10, 1984, before William B. Day, Administrative Law Judge, at which the appellant, the appellant's representative and representatives of the agency appeared. The appeal is from a determination by the agency relating to the discontinuance and reduction of appellant's 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) The appellant is in receipt of a grant of Aid to Dependent Children for herself and two children.
- (2) On January 26, 1984, the agency determined to discontinue the appellant's assistance due to appellant's earned income being in excess of 150 percent of the household's monthly Public Assistance needs.
- (3) On February 13, 1984, the agency determined to reduce appellant's grant of Aid to Dependent Children by ten percent of her monthly needs, so that an overpayment of assistance in the amount of \$4,078.00, would be repaid.
- (4) On February 14, 1984, the appellant requested this fair hearing at which both of the aforesaid determinations were at issue.
- (5) The appellant has received an overpayment of assistance, due to the agency not budgeting appellant's earned income against her Public Assistance needs.

(6) The notice of January 26, 1984, is defective in the following respects:

- a. it does not inform the appellant of any changes of Medical Assistance, or Food Stamps, caused by the proposed discontinuance; and
- b. it was not accompanied by a hard copy of the appellant's budget.

(7) The notice of February 13, 1984, is defective for the second reason set forth above, and also that it refers to "unreported" employment earnings when in fact appellant disclosed to the agency all of her income in a timely manner.

Section 358.8 of the Regulations of the State Department of Social Services provides that in all cases of proposed action to discontinue or reduce assistance payments, timely and adequate notice of such intent shall be sent to the recipient.

Administrative Letter 81 ADM 55, further provides that such notices "must contain specific information as to the effects of the Public Assistance changes (including effective dates) upon Medical Assistance, Food Stamps and services." Said Letter also mandates that hard copies of the budget must accompany the notices sent to the recipient.

Accordingly, the notices in question were defective for not including all of the information required by the Regulations and Administrative Letter cited above. They are therefore, not proper basis for a reduction or discontinuance of appellant's grant of assistance. It is noted that if, in the future, the agency should determine to implement its previously

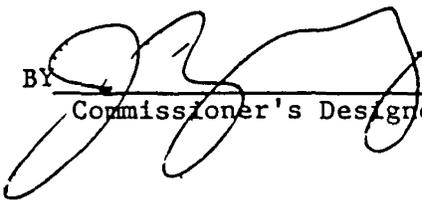
contemplated action, a new Notice of Intent that complies with the foregoing is required. The agency is directed to reinstate appellant's assistance, retroactive to the effective date of reduction and/or discontinuance. The agency is further directed to determine the amount of overpayment received by the appellant as a result of the agency failure to budget net earned income against household needs. Inasmuch as the appellant had advised the agency of her employment, the appellant is entitled to all applicable deductions and disregards including the thirty plus one-third earned income disregard for four consecutive months.

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

JUN 1 1984

CESAR A. PERALES
COMMISSIONER

BY  _____
Commissioner's Designee