
In the Matter of the Appeal of

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from a determination by the Nassau County Department
of Social Services (hereinafter called the agency)

:
DECISION
: AFTER
FAIR
HEARING
:

A fair hearing was held at Mineola, New York, on January 22, 1982, before William R. Meyers, Administrative Law Judge, at which the appellant, the appellant representative and a representative of the agency appeared. The appeal is from a determination by the agency relating to the discontinuance of the appellant's assistance. 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 currently in receipt of a grant of Aid to Dependent Children on behalf of herself and two minor children.

2. On December 16, 1981, the agency determined to discontinue the appellant assistance because the household's gross income was in excess of the state standard of need for a family of its size.

3. The notice used by the agency was defective and without effect.

Congress has determined, pursuant to Section 2303 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), that federal financial participation is no longer available to states for Aid to Families of Dependent Children (ADC) benefits that are provided to families whose total income exceeds 150 percent of the state standard of need for a family of that size. The New York State Legislature has amended the Social Services Law (Section 131-a(10)(a)) to conform to the federal requirement for both Aid to Dependent Children and Home Relief, and the New York State Department of Social Services has made corresponding amendments to its regulations (18 NYCRR 352.18). The New York State Department of Social Services, in Administrative Directive 81 ADM-55, issued on December 9, 1981, informed local districts of these changes.

The New York State Department of Social Services, in that directive, mandated the use of a state-prepared notice form for these changes, required that recomputations of Food Stamps and Medical Assistance eligibility be made, and required that copies of budgets be sent with the notices. The record in this case establishes that the agency did not use the state-mandated notice form in this case. In addition, the agency incorrectly determined to discontinue

Medical Assistance and Food Stamps rather than to recompute eligibility, and there is no evidence that copies of budgets were sent with the notice. Accordingly, the notice was invalid and without effect. The agency is directed to provide full assistance, including Medical Assistance and Food Stamps, until such time as a valid notice is sent which meets the requirements of Administrative Directive 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 29 1982



Barbara Blum
COMMISSIONER

BY: 

Peter Mullany
DEPUTY COUNSEL