



FH# 4646039J

3. The Agency's Notice of Intent dated September 26, 2006 did not include a copy of the household's new budget or the basis for the recomputation of the Appellant's benefits.

4. The Appellant requested this fair hearing to review the Agency's determination to reduce the Appellant's Food Stamp benefits.

### **APPLICABLE LAW**

A recipient of Public Assistance, Medical Assistance or Services has a right to an adequate notice when the Agency proposes to discontinue, suspend, reduce or change the manner of payment of such benefits. 18 NYCRR 358-3.3(a). In addition, in most circumstances, a Food Stamp recipient has a right to an adequate adverse action notice when the Agency proposes to take any action to discontinue, suspend or reduce the recipient's Food Stamp benefits during the certification period. 18 NYCRR 358-2.3; 18 NYCRR 358-3.3(b).

An adequate notice is a notice of action, an adverse action notice or an action taken notice which sets forth the action that the Agency proposes to take or is taking, and if a single notice is used for all affected assistance, benefits or services, the effect of such action, if any, on a recipient's other assistance, benefits or services. In addition, where the social service agency's determination is based upon a budget computation, the notice must contain, among other items, a copy of the budget or the basis for the computation. 18 NYCRR 358-2.2

### **DISCUSSION**

The Appellant requested this hearing to review the Agency's determination to reduce the Appellant's Food Stamp benefits based on its Notice of Intent dated September 26, 2006.

Although the Agency's determination is based upon a computation of the Appellant's budget, the Agency's notice did not set forth or include a copy of the budget or the basis for such computation as required by 18 NYCRR 358-2.2, above.

The above-noted defect in the Agency's notice renders such notice void. Therefore, the Agency's determination to reduce the Appellant's Food Stamp benefits cannot be sustained.

### **DECISION AND ORDER**

The Agency's determination to reduce the Appellant's Food Stamp benefits is not correct and is reversed.

1. The Agency is directed to restore the Appellant's Food Stamp benefits retroactive to the date of the Agency's action.

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2. In the event that the Agency determines to implement its previously contemplated action, the Agency is directed to provide the Appellant with a notice that meets the requirements set forth in 18 NYCRR 358-2.2.

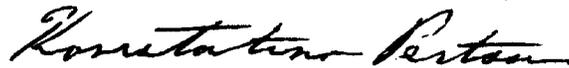
Should the Agency need additional information from the Appellant in order to comply with the above directives, it is directed to notify the Appellant promptly in writing as to what documentation is needed. If such information is requested, the Appellant must provide it to the Agency promptly to facilitate such compliance.

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

DATED: Albany, New York  
11/08/2006

NEW YORK STATE OFFICE OF  
TEMPORARY AND DISABILITY ASSISTANCE

By

A handwritten signature in cursive script, appearing to read "Rosalinda Bertone".

Commissioner's Designee