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In the Matter of the Appeal of :  
C P :  
from a determination by the New York City : **DECISION**  
Department of Social Services : **AFTER**  
 : **FAIR**  
 : **HEARING**  
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 :  
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JURISDICTION

This appeal is from a determination by the local Social Services Agency relating to the discontinuance of a motel shelter allowance without timely and adequate notice.

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of the Regulations of the New York State Department of Social Services (Title 18 NYCRR, hereinafter Regulations), a fair hearing was held on December 3, 1987, in New York City, before Diane G. Maupin, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

Eugene Doyle, Representative

For the Local Social Services Agency

Paul Bergen, Representative

FACT FINDING

An opportunity to be heard having been afforded to all interested parties and evidence having been taken and due deliberation having been had, it is hereby found that:

1. The Appellant, age twenty, had been in receipt of Emergency Housing Assistance from the Agency for herself and her mother, age forty-five, in the form of a motel shelter allowance.
2. The Appellant is employed part-time.
3. The Appellant's mother is in receipt of Supplemental Security Income as a result of severe physical and mental impairments.

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4. The Appellant's household was rendered homeless due to a fire in their home on October 5, 1987.

5. On October 23, 1987, the Agency began providing a motel shelter allowance to the Appellant to enable the Appellant and her mother to reside at the A Motor Inn in Queens County.

6. On November 24, 1987, the Agency provided the Appellant with grants to enable her to have a mobile home delivered and installed on the family's property as temporary Emergency Housing while the damage caused by the fire is repaired and provided the Appellant with the first month's rent for the mobile home.

7. The Appellant advised the Agency that the mobile home was expected to be available to the household on December 8, 1987.

8. On November 25, 1987, the Agency was advised by the A Motor Inn that the Appellant can remain at the motel until December 8, 1987 when the mobile home is expected to be available, on condition that her mother not reside with her, due to her mother's severe impairments.

9. On or about the same date, November 25, 1987, the Appellant's mother left the motel and began residing with friends and/or relatives, sometimes returning to the damaged house for shelter.

10. On November 25, 1987, the Agency verbally advised the Appellant that her motel shelter allowance would be discontinued effective November 26, 1987 and that the Appellant should report to a shelter.

11. The Agency did not provide the Appellant with a written notice regarding its determination to discontinue her motel shelter allowance, nor did the Agency provide the Appellant with a referral or directions to a specific shelter.

12. On November 25, 1987, the Appellant requested this hearing to review the Agency's determination to discontinue her motel shelter allowance without timely or adequate notice

13. The Appellant remained at the A Motor Inn for the night of November 26, 1987 and incurred a debt of \$81.28 for that night's accommodations.

14. The Agency discontinued the Appellant's motel shelter allowance and has provided no allowance beginning November 26, 1987.

15. Beginning November 27, 1987, the Appellant was unable to remain at the A Motor Inn because no rent was being paid and since that date the Appellant has resided with friends and then, most recently, with her aunt.

#### ISSUE

Was the Agency's determination to discontinue the Appellant's motel shelter allowance correct?

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APPLICABLE LAW

Administrative Directive 83 ADM-47, dated September 29, 1983, provides that the Agency must ensure that homeless persons or persons in immediate danger of becoming homeless can apply for Emergency Housing whenever such Emergency Housing is needed. Emergency Housing must be provided immediately if a homeless person is determined eligible. Pursuant to this Administrative Directive, it is the stated policy of the Department that Emergency Housing placements are as brief as possible and minimize both the dislocation from the homeless persons community and any disruption to the client's life caused by such dislocation, with particular attention being paid to the client's educational and community ties.

Section 352.3(e) of the Department Regulations provides that an allowance for shelter shall be made for recipients temporarily housed in hotel/motel facilities under certain circumstances.

Section 358.8(a) of the Regulations provides that timely and adequate notice of any proposed action to discontinue or reduce Public Assistance payments or to discontinue or reduce a Medical Assistance Authorization must be sent to the recipient. Timely and adequate notice means a written notice mailed at least ten days prior to the effective date of the proposed action and which contains details of the reasons for the proposed action as well as information regarding conference and hearing rights and the right to continued Public Assistance and Medical Assistance Authorization.

Section 358.8(d)(1) provides that the Agency shall dispense with timely notice but shall send adequate notice not later than the date of action when:

(ix) a special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period.

DISCUSSION

The record in this case establishes that the Agency had been providing the Appellant with a motel shelter allowance to enable her and her mother to receive Emergency Housing Assistance at the A Motor Inn. The record further establishes that, having received a letter from the A Motor Inn that the Appellant could remain in that motel until the mobile home that had been rented for her could be delivered and installed on December 8, 1987, so long as her mother did not reside with her, the Agency determined that the Appellant was no longer eligible for a motel shelter allowance and that the Agency discontinued the allowance effective November 26, 1987.

The uncontroverted evidence presented by the Appellant's Representative at the hearing, including an Affidavit signed by the Appellant, establishes that the Agency verbally advised the Appellant on November 25, 1987 that her

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motel allowance would be discontinued the following date at twelve o'clock noon and that she should report to a shelter. The Appellant was not provided with a written notice regarding the Agency's determination, nor a referral to or the address of a specific shelter.

Under such circumstances, the record fails to establish that the Agency has complied with its obligations under the above cited authorities. The record fails to establish that the Agency provided the Appellant with timely notice, as set forth above. Moreover, even if timely notice is not needed, the record fails to establish that adequate notice was provided. Lastly, the record fails to establish that the Agency provided the Appellant with sufficient information so as to assure that she had continued access to Emergency Housing Assistance. Under such circumstances, the Appellant continues to be eligible for a motel shelter allowance.

It is noted that the Appellant's Representative testified at the hearing that he is requesting that the Agency provide the Appellant with an allowance of \$81.28, as well as restore the motel shelter allowance prospectively, in order to enable the Appellant to return to the A Motor Inn for the remaining days until the mobile home is available. He further testified that he is in the process of making arrangements with the A Motor Inn to enable the Appellant's mother to return there with the Appellant because she is in need of the Appellant's care.

#### DECISION AND ORDER

The Agency's determination to discontinue the Appellant's motel shelter allowance is not correct and is reversed.

The Agency is directed to immediately provide the Appellant with a motel shelter allowance of \$81.28 for the rent owing for the night of November 26, 1987 and to restore her motel shelter allowance prospectively, to continue until such time as the mobile home is available, if the provision of such assistance will enable the Appellant to return to the A Motor Inn.

If the Appellant is unable to return to the A Motor Inn, the Agency is directed to provide alternate Emergency Housing Assistance, in accordance with 83 ADM-47, to the Appellant and her mother.

As required by Department Regulations at 18 NYCRR 358.22, the Agency must comply immediately with the directives set forth above.

DATED: Albany, New York

CESAR A. PERALES  
COMMISSIONER

DEC 09 1987

By   
Commissioner's Designee