

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

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Whereas, pursuant to the provision 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 the appellant's Public Assistance and Medical Assistance benefits and whereas the agency was provided the opportunity to respond to said request but has not yet done so, and due deliberation having been had, it is hereby found:

1. The appellant was in receipt of an Aid to Dependent Children grant for a household of one. She resides with her two sons, V , age twenty, and M age seventeen. V had no income and M received \$292.00 a month in Social Security benefits. The agency had previously been directed by Fair Hearing Decisions dated November 30, 1977 and November 21, 1979, to classify the appellant as an Aid to Dependent Children household.

2. The agency, without written notice, reclassified the appellant as a Home Relief recipient and required the appellant to pick up her Public Assistance grant at the agency's employment office and to report to a Public Works Project on October 11, 1983, for assignment to work relief. The agency, by letter dated October 8, 1983, terminated the appellant's grant effective October 18, 1983, because of a failure by the appellant to report to the New York State Employment Service.

3. The agency deleted the name of the appellant's son, V , from the appellant's October, 1983, Medical Assistance card without notice or reason.

4. By letter, dated September 27, 1983, the appellant's representative requested a decision without a fair hearing to review the following agency actions:

(a) withholding of the appellant's September 25th (9/B) Aid to Dependent Children semi-monthly grant \$130.05 without any written notice;

(b) discontinuance of Medicaid for V C without any written notice;

(c) change in classification of Public Assistance Category from Aid to Dependent Children to Home Relief for M C without any written notice;

(d) subjecting M C to work rules under 18 NYCRR Part 385 without a prior determination of employability, and without the issuance of an adequate and timely notice of employability; and

(e) subjecting an Aid to Dependent Children recipient to Home Relief work rules, including semi-monthly check pick-up and Public Works Project.

5. By letter dated October 5, 1983, the agency was afforded the opportunity to make appropriate rebuttal. No response was received.

6. By letter, dated October 7, 1983, the appellant's representative requested a decision without a hearing to review the agency notice of October 8, 1983, which terminated benefits because of the appellant's failure to report to the State Employment Service. By letter, dated December 8, 1983, the agency was afforded the opportunity to submit rebuttal material on this additional issue.

7. By letter, dated February 17, 1984, the agency was advised that the Commissioner had not received any material and was again afforded the opportunity to submit rebuttal material. To date, no such material has been received.

8. The agency has been directed to continue the appellant's Aid to Dependent Children grant unchanged until a hearing decision is rendered and to provide Medical Assistance benefits unchanged to the appellant's son, M , until a fair hearing decision is rendered.

Section 369.2 of the Department's Regulations provides that a dependent relative, such as the appellant, is essential to meet the needs of a child who does not qualify for Public Assistance because of income, that the relative must receive assistance in the Aid to Dependent Children category. The agency, in fact, was directed by decision dated November 21, 1979, to do precisely that, yet the documents submitted by the appellant indicate that the agency did reclassify the appellant as a Home Relief recipient without any notice. Furthermore, the agency, even though its records show that the appellant has serious medical problems which may render her unemployable, subjected the appellant to employment requirements without affording the appellant the opportunity to request a fair hearing to challenge the agency determination.

Accordingly, the agency improperly withheld the appellant's September 25, 1983, check, improperly reclassified the appellant as a Home Relief recipient, improperly subjected the appellant to employment requirements and improperly terminated the appellant's Public Assistance benefits because of a failure to report to the State Employment Service. The agency is directed to mail the appellant's September 25, 1983, grant, if it has not done so already, maintain the appellant's classification as an Aid to Dependent Children recipient, unless and until proper notice is sent, and exempt the appellant from all employment requirements, unless and until the agency makes an appropriate determination of employability and gives the appellant proper notice, and maintain the appellant's grant of assistance. In view of the fact that the agency's change of category to Home Relief has been found to be improper, the appellant's fifth issue, subjecting an Aid to Dependent Children recipient to Home Relief work rules, need not be decided.

The documents further indicate that the agency improperly terminated  
V C 's Medical Assistance benefits without notice or reason. The agency

is directed, if it has not done so already, to reinstate V C 's Medical Assistance benefits.

DECISION: The agency determinations regarding the appellant's Public Assistance and Medical Assistance benefits are not correct and are 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 24 1984

CESAR A. PERALES,  
COMMISSIONER

BY *Pamela Treadwell-Obner*  
Commissioner's Designee