
In the Matter of the Appeal of :

J K

DECISION
: AFTER
FAIR
HEARING

from a determination by the New York City
Department of Social Services :

JURISDICTION

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 October 3, 1995, in New York City, before Elizabeth Hewitt, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

E. Doyle, Appellant's Representative

For the Social Services Agency

Agency Appearance, None

ISSUE

Was the determination of the Agency to reduce the Appellant's Public Assistance benefits without notice correct?

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 has been in receipt of Public Assistance benefits.
2. Effective May 1, 1995, the Agency reduced the Appellant's Public Assistance benefits from \$238.00 semi-monthly to \$171.11 semi-monthly without notice.

3. The Appellant requested this fair hearing to contest the Agency's determination.

APPLICABLE LAW

Department regulations at 18 NYCRR 358-3.3(a) provide that a recipient of Public Assistance, Medical Assistance or services has a right to notice when the agency proposes to take any action to discontinue, suspend, or reduce a Public Assistance grant, Medical Assistance authorization or services. Department regulations at 18 NYCRR 358-3.3(b)(1) and Federal regulations at 7 CFR 273.13 provide that a recipient of Food Stamp benefits has a right to notice when the agency proposes to take any action to discontinue or reduce Food Stamp benefits.

DISCUSSION

The uncontroverted evidence establishes that effective May 1, 1995, the Agency, without sending any notice, reduced the Appellant's Public Assistance benefits.

The Agency's failure to give timely and adequate notice of its proposed actions violates Department Regulations at 18 NYCRR 358-3.3(a).

DECISION AND ORDER

The determination of the Agency to reduce the Appellant's Public Assistance benefits without notice is not correct and is reversed.

1. The Agency is directed to restore the Appellant's Public Assistance retroactive to May 1, 1995, the date the Appellant's Public Assistance benefits were reduced.

2. Should the Agency in the future determine to implement its previous action, it is directed to issue a timely and adequate Notice of Intent.

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

DATED: Albany, New York
October 6, 1995

NEW YORK STATE DEPARTMENT
OF SOCIAL SERVICES

By


Commissioner's Designee