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

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JURISDICTION

This appeal is from a determination by the local Social Services Agency relating to the discontinuance of Medical Assistance benefits without prior notice to the Appellant.

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 February 2, 1988, at 330 West 34th Street, New York, New York, before Gladys Kay Hiller, Administrative Law Judge. The following persons appeared at the hearing:

<u>For the Appellant</u>	<u>For the Local Social Services District (Agency)</u>
Eugene Doyle, Appellant's Representative	Frank East, Representative

FACT FINDINGS

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 was in receipt of Medical Assistance benefits.
2. Effective on or about September 1, 1987, the Agency discontinued the Appellant's Medical Assistance Authorization without notice or reason.
3. On December 30, 1987, the Appellant requested this hearing to review the Agency's determination to discontinue Appellant's Medical Assistance Authorization.

ISSUE

Was the Agency's determination to discontinue the Appellant's Public Assistance grant and Medical Assistance Authorization without notice or reason correct?

APPLICABLE LAW

Section 358.8(a) of the Regulations of the State Department of Social Services provides that timely and adequate notice of any proposed action to discontinue or reduce

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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.

DISCUSSION

In this case the uncontroverted evidence establishes that on or about September 1, 1987, the Agency, without sending any notice, discontinued Appellant's Medical Assistance Authorization.

The Agency's failure to give timely and adequate notice of its proposed actions violates Department Regulations. 18 NYCRR 358.8(a).

DECISION AND ORDER

The determination of the Agency to discontinue the Appellant's Medical Assistance Authorization without notice or reason is not correct and is reversed.

1. The Agency is directed to restore the Appellant's Medical Assistance Authorization retroactive to September 1, 1987, the date the Appellant's Medical Assistance benefits were discontinued.

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

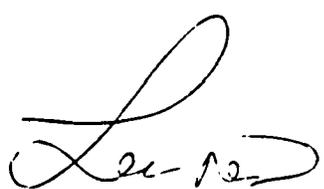
As required by Department Regulations at 18 NYCRR 358.22, the Agency must comply immediately with the directives set forth above.

DATED: Albany, New York

CESAR A. PERALES,  
COMMISSIONER

SEP 26 1988

BY

  
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Commissioner's Designee