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

JURISDICTION

This appeal is from a determination by the local Social Services Agency to discontinue Appellant's Medical Assistance 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 October 27, 1988, in New York City, before Edward Shalfi, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

Eugene Doyle, Representative

For the Local Social Services Agency

No Appearance

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 Medical Assistance since July 21, 1988. He resides with his wife and two minor children who are in receipt of Public Assistance and Medical Assistance for themselves.

2. On March 24, 1988, the Agency determined to remove the needs of the Appellant from the household's Public Assistance budget effective April 5, 1988. This notice also stated that the Appellant's Medical Assistance

1241475L

would continue until a re-evaluation of his eligibility for Medical Assistance was made.

3. The Appellant is not appealing the removal of his needs from the household Public Assistance budget.

4. Effective on or about May 1, 1988, the Agency discontinued the Appellant's Medical Assistance Authorization without notice or reason.

5. Although notified of the time and place of the scheduled fair hearing, the Agency did not appear, present, or submit the Appellant's case record.

6. On June 17, 1988, the Appellant requested this hearing to review the Agency's determination to discontinue Appellant's Medical Assistance.

ISSUE

Was the Agency's determination to discontinue Appellant's Medical Assistance 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 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 March 24, 1988, the Agency determined to remove the needs of the Appellant from the household's Public Assistance budget effective April 5, 1988. This notice also stated that the Appellant's Medical Assistance would continue until a re-evaluation of his eligibility for Medical Assistance was made. The Appellant is not appealing the removal of his needs from the household Public Assistance budget.

Effective on or about May 1, 1988, the Agency discontinued the Appellant's Medical Assistance Authorization without notice or reason. The Appellant's representative further stated that no re-evaluation of the Appellant's eligibility for Medical Assistance was ever made.

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

1241475L

DECISION AND ORDER

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

The Agency is directed to restore the Appellant's Medical Assistance Authorization retroactive to 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

NOV 07 1988

CESAR A. PERALES
COMMISSIONER

By *Robert D. Mc Donnell*

Commissioner's Designee