

STATE OF NEW YORK
DEPARTMENT OF SOCIAL SERVICES

REQUEST February 12, 1996
CASE#
CENTER# MAP
FH# 2422679N

In the Matter of the Appeal of :

S K , for herself,
and on behalf of her daughter,
N

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 June 18, 1996, in New York City, before Michael A. Vass, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellants

Eugene Doyle, Appellants' Representative

For the Social Services Agency

L. Allen, Fair Hearing Representative

ISSUE

Was the Agency's determination to discontinue the Appellants' Medical Assistance Authorizations effective on or about December 31, 1995, without notice, correct?

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 Appellants, mother and daughter, were in receipt of Medical Assistance Authorizations.
2. Effective on or about December 31, 1995, the Agency discontinued the Appellants' Medical Assistance Authorizations without notice.
3. On February 12, 1996, this hearing was requested to contest the Agency's determination.

APPLICABLE LAW

Department Regulations at 18 NYCRR 358-3.3(a) provide, in pertinent part, that a recipient has a right to notice when a social services agency proposes to take any action to discontinue a Medical Assistance Authorization.

DISCUSSION

In this case the unrefuted evidence establishes that on or about December 31, 1995, the Agency discontinued the Appellants' Medical Assistance Authorizations without notice. The Agency's failure to give notice of its proposed actions violates Department Regulations. Therefore, its determination cannot be sustained.

DECISION AND ORDER

The Agency's determination to discontinue the Appellants' Medical Assistance Authorizations effective on or about December 31, 1995, without notice, was not correct and is reversed.

1. The Agency is directed to restore the Appellants' Medical Assistance Authorizations retroactive to the date they were discontinued and to continue to provide Medical Assistance Authorizations to them.

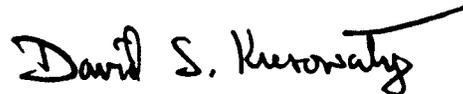
Should the Agency in the future determine to implement its previous action, it is directed to issue a timely and adequate Notice of Intent.

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
June 24, 1996

NEW YORK STATE DEPARTMENT
OF SOCIAL SERVICES

By



Commissioner's Designee