

STATE OF NEW YORK
DEPARTMENT OF SOCIAL SERVICES

REQUEST June 11, 1993
CASE#
CENTER# F-15
FH# 1985170H

In the Matter of the Appeal of :

B C

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 21, 1993, in New York City, before Carol Feinman, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

Eugene Doyle

For the Social Services Agency

David Reis, Fair Hearing Representative

ISSUE

Was the Agency's discontinuance of the Appellant's Food Stamp benefits, effective June, 1993, without notice correct?

Was the Agency's failure to send notices regarding the Appellant's Food Stamp benefits to her designated mailing address 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 was in receipt of Food Stamp benefits for herself alone in the monthly amount of \$111.00.

2. The Appellant is in receipt of Supplemental Security Income (SSI) in the monthly amount of \$520.00.

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3. Effective June, 1993, the Agency discontinued Appellant's Food Stamp benefits without notice.

4. In her application forms for recertification for Food Stamp benefits the Appellant had notified the Agency that her mailing address was different from her residential address and she had requested the Agency to send all notices regarding her Food Stamp benefits to her mailing address - P.O.O.R. (People Organized for Our Rights, Inc.); 102-12 164th Avenue; Queens, New York 11414.

5. The Agency sent notices regarding the Appellant's Food Stamp benefits to the Appellant's residential address.

6. The Appellant requested this hearing to review the Agency's determination to discontinue Appellant's Food Stamp benefits; its failure to send notices regarding the Appellant's Food Stamp benefits to the Appellant's mailing address and its failure to send the Appellant a timely Notice of Expiration of her current Food Stamp certification period. At this hearing the issues for review were clarified to the Agency's determination to discontinue Appellant's Food Stamp benefits and its failure to send notices regarding the Appellant's Food Stamp benefits to the Appellant's mailing address.

APPLICABLE LAW

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.

Where benefits are lost due to an error by the Agency, the Agency is required to restore lost benefits. However, lost benefits shall be restored for not more than twelve months prior to whichever of the following occurred first:

1. The date the Agency received a request for restoration from a household; or
2. The date the Agency is notified or otherwise becomes aware that a loss to a household has occurred.

7 CFR 273.17; 18 NYCRR 387.18 and the Department of Social Services Food Stamp Source Book, section X-H-1.

DISCUSSION

In this case the uncontroverted evidence establishes that effective June, 1993, the Agency, without sending any notice, discontinued Appellant's Food Stamp benefits.

The Agency's failure to give notice of its proposed actions violates the above cited regulations.

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The record of this case further establishes that the Agency has sent notices regarding the Appellant's Food Stamp benefits to the Appellant's residential address instead of to her mailing address despite her having requested the Agency to send these notices to the latter address. At this hearing the Agency agreed that all Agency notices regarding the Appellant's Food Stamp benefits will be sent to her mailing address and the Appellant's representative accepted this agreement.

DECISION AND ORDER

The determination of the Agency to discontinue Appellant's Food Stamp benefits without notice is not correct and is reversed.

1. The Agency is directed to restore the Appellant's monthly Food Stamp benefits to \$111.00 retroactive June, 1993, the date Appellant's Food Stamp benefits were discontinued.

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.

In accordance with the Agency's agreements made at the hearing, the Agency is directed to take the following action, if it has not already done so:

Send all Agency notices regarding the Appellant's Food Stamp benefits to her mailing address - c/o P.O.O.R. (People United for Our Rights, Inc.); 102-12 164th Avenue; Queens, New York 11414.

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

JUN 23 1993

NEW YORK STATE DEPARTMENT
OF SOCIAL SERVICES

By


Commissioner's Designee