

STATE OF NEW YORK  
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

REQUEST July 2, 2004  
CASE #  
CENTER # F-53  
FH # 4149618H

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In the Matter of the Appeal of :

M T

DECISION  
: AFTER  
FAIR  
HEARING

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

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JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on July 20, 2004, in New York City, before Richard P. Garcia, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

M T , Appellant by speakerphone  
Eugene Doyle, P.O.O.R.

For the Social Services Agency

A.Walker, Fair Hearing Representative

ISSUE

Was the determination of the Agency to discontinue the Appellant's Food Stamp 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 Food Stamp benefits.
2. Effective April 1, 2004, the Agency discontinued the Appellant's Food Stamp benefits, which had previously been in the amount of \$471.00, without notice.

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3. On July 2, 2004, the Appellant requested this fair hearing.

#### APPLICABLE LAW

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 Food Stamp 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 Food Stamp Source Book, Section 10.

#### DISCUSSION

The Agency, without sending any notice, discontinued the Appellant's Food Stamp benefits, which had previously been in the amount of \$471.00.

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

#### DECISION AND ORDER

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

1. The Agency is directed to restore the Appellant's Food Stamp benefits retroactive to the date such benefits were discontinued.
2. Should the Agency in the future determine to implement its previous action with respect to the Appellant's Food Stamp benefits, it is directed to issue a timely and adequate Notice of Intent.

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

DATED: Albany, New York  
September 21, 2004

NEW YORK STATE OFFICE OF  
TEMPORARY AND DISABILITY ASSISTANCE

By

  
Commissioner's Designee