
In the Matter of the Appeal of

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

DECISION
: WITHOUT
EVIDENTIARY
HEARING
:

By letter dated December 30, 1987, the Appellant's representative, Eugene Doyle, requested that a decision without an evidentiary hearing be issued pursuant to 18 NYCRR 358.19. Pursuant to 18 NYCRR 358.19, by letter dated January 8, 1988, a copy of the Appellant's request and supporting documents were sent to the Agency. The Agency has not timely responded to this request.

FACT FINDINGS

An opportunity to be heard having been afforded to all interested parties and evidence having been submitted and due deliberation having been had, it is hereby found that:

1. The Appellant has been in receipt of Food Stamp benefits for a household of three persons.
2. By notice dated December 22, 1987, the Agency advised the Appellant of its determination to reduce the Appellant's Food Stamp benefits from \$194.00 to \$133.00 monthly effective January 13, 1988 because of the receipt by her husband of Supplemental Security Income benefits and the addition of a fuel allowance to the Appellant's Public Assistance grant.
3. The Agency's notice of December 22, 1987 did not include any citation to the authority under which the action was being taken.
4. By letter dated December 30, 1987, the Appellant requested review of the Agency's determination to reduce her Food Stamp benefits from \$194.00 to \$133.00 monthly on the grounds that a) the notice of intent did not cite the regulatory authority for the proposed action, and b) the budget information provided with the notice of intent did not adequately explain the basis of the Agency's computations.
5. Although requested to do so by letter dated January 8, 1988, the Agency has not submitted any evidence in opposition to the Appellant's allegations.

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ISSUE

Was the Agency's determination to reduce the Appellant's Food Stamp benefits from \$194.00 to \$133.00 monthly, effective January 13, 1988, to reflect the inclusion of her husband's income from Supplemental Security Income benefits and the addition of a fuel allowance to the Appellant's Public Assistance grant correct?

APPLICABLE LAW

Department Regulations at 18 NYCRR 387.20(b) provide as follows:

Notification to recipients. Each Food Stamp household shall be notified in writing of any change, reduction or termination of the household's Food Stamp benefits. The notification letter shall explain, in easily understandable language: the proposed action, the reason for the proposed action including the applicable regulatory citation; a copy of the new food stamp budget; the household's right to request a fair hearing, a telephone number to secure additional information, the availability of continued food stamp benefits; and the liability of the household for any food stamp benefits received while awaiting a fair hearing decision if the decision affirms the local department's action.

DISCUSSION

The evidence in this case establishes that the Agency advised the Appellant, by notice dated December 22, 1987, of its determination to reduce her Food Stamp benefits from \$194.00 to \$133.00 monthly to reflect the income of her husband from Supplemental Security Income benefits and the addition of a fuel allowance to her Public Assistance grant. This notice did not include a citation to the applicable regulatory authority under which the action was being taken. As such, the notice of December 22, 1987 violated the provisions of 18 NYCRR 387.20(b). Under such circumstances, the Agency's determination cannot be sustained.

Inasmuch as it has been determined, pursuant to the above, not to sustain the Agency's determination, the Appellant's contention as to the adequacy the budget summary provided by the Agency with the notice of intent need not be decided.

DECISION AND ORDER

The determination of the Agency is not correct and is reversed.

1. The Agency is directed to cancel its notice of December 22, 1987 and to take no further action thereon.

2. The Agency is directed to restore the Appellant's Food Stamp benefits to the amount of \$194.00 monthly retroactive to the date on which the Appellant's Food Stamps were reduced.

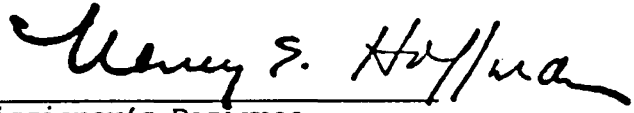
3. In the event that the Agency determines to implement its previous action, it is directed to issue a timely and adequate notice which complies with the provisions of 18 NYCRR 387.20(b).

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

FEB 08 1988

CESAR A. PERALES
COMMISSIONER

By 
Commissioner's Designee