

NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

MARY JO BANE
Commissioner



SUSAN V. DEMERS
*Deputy Commissioner
and General Counsel*

(518) 473-4775

June 23, 1992

Mr. Eugene Doyle
Executive Director
P.O.O.R.
102-12 164th Avenue
Hamilton Beach, NY 11414

Dear Mr. Doyle:

I am writing in response to your letter of May 26, 1992, to Commissioner Bane and to your prior letters regarding the handling of certain aid-continuing determinations. In those letters you allege that this Department makes aid-continuing determinations based on ex-parte information from social services districts and that the Department fails to notify appellants fully and timely of the aid-status of their requests.

Since at least 1972 this Department has contacted social services districts to ascertain the dates of a notice of intent (to determine request timeliness) when the information was not available from files maintained by this Department. For many years there were a limited number of such cases because the Department maintained a hard copy file of all notices of intent (each district sent us copies) and each request was matched against this file to determine the timeliness of the request and aid-status. For the few we couldn't match we would obtain the dates from the social services districts. In 1987 this practice was discontinued because notice volume was so large that the file became unwieldy to maintain and successful matches had declined dramatically. We then established the "call-back" process whereby we notify each district daily of all requests for which we do not have verified notice dates and the district has 48 hours to call back with the dates. A failure to call back timely results in the case being made aid-continuing. This process replaced the State matching mechanism, by having each district do the matching and call us back. In our rewrite of 18 NYCRR Part 358 (in 1988), we removed the requirement that social services districts mail us a copy of every notice.

Of 160,000 requests annually, 54,000 go through the call-back process; of these 49,000 (90%) are made aid-continuing.

When the automated client notices (CNS) system is operational, the Department will be able to inquire against CNS at the time a request is made. This will replace the call-back process by enabling us to determine timeliness immediately. Until CNS is available we will continue to determine timeliness for these cases in the current manner.

However, you have raised a valid concern with regard to allegations of non-receipt of the notice by the appellant at the time of the request. I concur that in such circumstances the appropriate response is to make the case aid-continuing until the issue of non-receipt is dealt with at the hearing. Of course, there is the potential for recoupment of some benefits if the appellant is determined not to have been entitled to them.

With regard to your complaint about the timeliness and completeness of our notification to appellants about the aid-status of their requests I indicated in my earlier response that there are fiscal, as well as physical constraints on our ability to modify the DSS-457 (scheduling notice) for this purpose in the near future.

We do intend to develop a request acknowledgment letter that will inform each appellant of the issues to be heard, the aid-status of each issue, and how aid-status can be appealed. We will not be able to implement this quickly since it requires significant modifications to our computer system and will have an impact on our operational processes as well. Nonetheless, we will be developing this form and implementing it as quickly as the development process will allow. I will be glad to advise you of our progress as we go forward.

If you have further questions, please feel free to contact me.

Sincerely,



Russell J. Hanks
Acting Deputy Counsel
for Fair Hearings

RJH:mh

cc: Susan V. Demers