

Office of Administrative Hearings (OAH) Procedures Transmittal			Transmittal Number: 07-18
Distribution:			Date: December 6, 2007
			Page: 1 of 2 (plus Attach.)
ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input checked="" type="checkbox"/>	Subject: New Issue Code 140 <u>Doe v. Doar</u> Litigation-Related Issues
	SUP ALJs <input checked="" type="checkbox"/>		
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	NYC Agencies <input checked="" type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>		

The Office of Administrative Hearings has begun receiving fair hearing requests related to the Doe v. Doar litigation. The court's decision changed the budgeting methodology for households when the family includes an SSI member. In most instances Public Assistance (FA or SNA) will increase with a resulting decrease in Food Stamp Benefits.

In NYC, the required rebudgeting has been done via a mass-change notice dated November 10, 2007 with an effective date of December 1, 2007. The language under PA reads as follows: "This decision is based on Court direction that we may not prorate (reduce) your public assistance needs because you have an SSI family member in your household." On the reverse side of the notice, the last line indicates "Doe v. Doar: Remove proration." A copy of the notice is attached. Notification of any exceptions to the mass rebudgeting in NYC will be done via CNS notices.

Upstate, notifications regarding Doe v. Doar actions will all be done via CNS notices. The CNS Code Book has been updated to reflect all the Doe-related codes.

Effective December 2, 2007, a new issue code, **Issue Code 140**, has been created in the Fair Hearing Information (FHIS) to identify Doe v. Doar-related Public Assistance cases. This code is for Statewide use. Communication Intake Unit (CIU) staff should refer to the coding below when processing any Doe v. Doar-related fair hearing request:

Agency: N0__ (NYC Job Center) or Upstate LDSS
Category: FA or SNA
Subcategory: None
Issue Code: **140**
Action: As appropriate
Aid Status: Aid-Continuing or Non-Aid, as appropriate
Hearing Site: 14 Boerum Place or Upstate LDSS
Comments: Doe v. Doar Litigation

Other non-Doe v. Doar-related issues can be added to these requests.

If the fair hearing request seeks review of any Food Stamp reduction resulting from the PA Doe v. Doar action, CIU staff should enter Issue Code 405.

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.

A handwritten signature in black ink that reads "Mark Lacivita". The signature is written in a cursive style with a large, stylized initial "M".

Mark Lacivita, Director of Administration
Office of Administrative Hearings

RIVERVIEW JOB CENTER (037)
1951 PARK AVENUE
NEW YORK, NY 1003751301

NOTICE OF INTENT TO CHANGE YOUR BENEFITS
PUBLIC ASSISTANCE AND FOOD STAMPS - NYC

NEW YORK STATE
Office of Temporary and Disability Assistance



Copy

Case Number: ~~000000000~~
Loc. Off./Unit/Worker: 037//00083

General Telephone No. for
Questions or Help: (212) 690-9257

Notice Date: NOVEMBER 10, 2007

[REDACTED]
[REDACTED]
[REDACTED]
NEW YORK NY 10031

CONSULTE LA VERSIÓN EN ESPAÑOL DE ESTA NOTIFICACIÓN PARA INFORMARSE SOBRE LA MODIFICACIÓN EN LOS BENEFICIOS QUE USTED RECIBE Y SOBRE CÓMO SE CALCULARON SUS BENEFICIOS DE ASISTENCIA PÚBLICA.

THIS NOTICE IS TO TELL YOU THAT YOUR BENEFITS WILL CHANGE AS FOLLOWS:

EL MOTIVO DE ESTA NOTIFICACIÓN ES PARA INFORMARLE QUE SUS BENEFICIOS SE MODIFICARÁN TAL COMO SE MUESTRA A CONTINUACIÓN:

PUBLIC ASSISTANCE: Your Public Assistance grant will change from \$ 54.50 to \$ 68.50 effective 12/1/07

This decision is based on Court direction that we may not prorate (reduce) your public assistance needs because you have an SSI family member in your household.

How we calculated your new public assistance benefit:

- | | |
|--|--|
| 1. The number of people receiving public assistance in your suffix is: <u>01</u> | |
| 2. Pre-add: <u>56.00</u> | 9. Total Unearned Income: <u>.00</u> |
| 3. Shelter: <u>.00</u> | 10. Gross Earned Income: <u>.00</u> |
| 4. Energy: <u>7.05</u> | 11. Earned Income We Count: <u>.00</u> |
| 5. Energy Supplement: <u>5.50</u> | 12. Total Income We Count: <u>.00</u> |
| 6. Fuel: <u>.00</u> | |
| 7. Other Needs: <u>.00</u> | |
| 8. Total Needs: <u>68.50</u> | 13. PA Grant: <u>68.50</u> |

You also will receive the public assistance benefits that you lost due to the proration policy. You will receive another letter within SIX MONTHS of the date of this letter telling you the amount of the retroactive payment and how it was calculated. DO NOT CALL social services to ask for your retroactive payment any sooner than six months from the date of this letter. The Court agrees with the method that we are using to provide the retroactive payment and it will take that long to calculate it, inform you about the retroactive payment in a notice, and provide the payment.

Even if your case closes before the payment is issued, you will receive your payment. It will be issued on your EBT card.

If this notice tells you that your public assistance benefit did not change at all, or that your new public assistance benefit is less, you will not receive a retroactive payment.

FOOD STAMP BENEFITS: Your Food Stamp benefits will go from 61.00 to 13.00 effective 12/1/07

The reason for this change is that the amount of public assistance income that we count has changed. Usually an increase of three dollars (\$3.00) in public assistance income will result in a reduction of one dollar (\$1.00) in food stamps.

This decision is based on 18 NYCRR 387.15.

MEDICAID: Your Medicaid benefits will continue unchanged.

This decision is based on 18 NYCRR 360-3.3.

DO YOU THINK WE ARE WRONG?
If so, see the enclosed Conference and Fair Hearing Page

XL0152 (11/07)

CONFERENCE AND FAIR HEARING SECTION - DO YOU THINK WE ARE WRONG?

If you think our decision is wrong, you can ask for a review of our decision. We will correct our mistakes. You can do both 1 and 2:

- 1. Ask for a meeting (conference) with one of our supervisors;
 - 2. Ask for a State fair hearing with a State hearing officer.
1. **CONFERENCE** (Informal meeting with us) - If you think our decision was wrong, or if you do not understand our decision, please call us to set up a meeting. To do this, call the conference phone number on the front of this notice or write to us at the address on the front of this notice. Sometimes this is the fastest way to solve any problem you may have. We encourage you to do this even when you have asked for a fair hearing.

If you only ask for a meeting with us, we will not keep your benefits the same while you appeal. Your benefits will stay the same only if you ask for a State fair hearing. (See "Keeping Your Benefits The Same" below.)

- 2. **STATE FAIR HEARING** - You have the following number of days from the date of this notice to ask for a fair hearing: 60 days for Public Assistance, and 90 days for Food Stamps Benefits.

KEEPING YOUR BENEFITS THE SAME: We will restore your Public Assistance and Food Stamps Benefits to the same level they were before this notice, if you ask for a fair hearing before the effective date stated in this notice. If you lose the fair hearing, you will have to pay back any Public Assistance or Food Stamps benefits you got but should not have gotten, while you were waiting for the decision.

If you do not want your benefits to stay the same until the decision is issued, you must tell the State when you call for a fair hearing or, if you send back this notice, check the box or boxes below:

I do not want to "keep my benefits the same" until the Fair Hearing decision is issued:

- Public Assistance
- Food Stamps

HOW TO ASK FOR A FAIR HEARING: You can ask for a fair hearing by mail, by phone, by fax, by walk-in or online.

Mail: Send a copy of this page to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

BEFORE you send this, give us the following information or we will not know how to contact you.

Write your name: _____

Write your full address: _____

Write your case number: _____ Write your telephone Number: _____

I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation. There has been a decrease in my household's (SSI) income.

Phone: 800-342-3334 (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL.)

Fax: Fax a copy of the front and reverse of this notice to: (518) 473-6735.

Walk-In: Bring a copy of this entire notice to the New York State Office of Temporary and Disability Assistance at 14 Boerum Place, Brooklyn or 330 West 34th Street, NYC.

Online: Complete an online request form at: <http://www.otda.state.ny.us/oah/forms.asp>

If you cannot reach the New York State Office of Temporary and Disability Assistance by phone, fax, walk-in or online, please write to ask for a fair hearing before the deadline.

WHAT TO EXPECT AT A FAIR HEARING: The State will send you a notice that tells you when and where the fair hearing will be held. At the hearing, you will have a chance to explain why you think our decision is wrong. You can bring a lawyer, a relative, a friend or someone else to help you do this. If you cannot come yourself, you can send someone to represent you. If you are sending someone who is not a lawyer to the hearing instead of you, you must give this person a letter to show the hearing officer that you want this person to represent you at the hearing.

At the hearing, you and your lawyer or other representative will have a chance to explain why we are wrong and a chance to give the hearing officer written papers that explain why we are wrong.

To help you explain at the hearing why you think we are wrong, you should bring any witnesses who can help you. You should also bring any papers you have, such as: pay stubs, leases, receipts, bills, doctor's statements. At the hearing, you and your lawyer or other representative can ask questions of witnesses which we bring or which you bring to help your case.

LEGAL ASSISTANCE: If you think you need a lawyer to help you with this problem, you may be able to get a lawyer at no cost to you by contacting your local Legal Aid Society or other legal advocate group. For the names of other lawyers, check your Yellow Pages under "Lawyers".

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS: To help you get ready for the hearing, you have a right to look at your case file. If you call, write or fax to us, we will send you free copies of the documents from your file that we will provide the Hearing Officer at the Fair Hearing. Also, if you call, write or fax to us, we will send you free copies of other specific documents from your file that you think you may need to prepare for your Fair Hearing. To ask for documents or to find out how to look at your file, call (718) 722-5012, fax (718) 722-5018 or write to HRA Division of Fair Hearing, 14 Boerum Place, Brooklyn, New York 11201.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

INFORMATION: If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the phone numbers on the first page of this notice or write to us at the address on the first page of this notice.