

In the Matter of the Appeal of

C B

from a determination by the Nassau County
of Social Services (hereinafter called the agency)

Department

:
:
DECISION
: AFTER
FAIR
HEARING
:

A fair hearing was held at Mineola, New York, on February 15, 1985, before Nathan J. Siegel, Administrative Law Judge, at which the appellant, the appellant's representative and a representative of the agency appeared. The appeal is from determinations by the agency relating to the denial of an application for a grant of Aid to Dependent Children and Medical Assistance, and the denial of emergency housing. An opportunity to be heard having been accorded all interested parties and the evidence having been taken and due deliberation having been had, it is hereby found:

1. On December 4, 1984, the appellant, age nineteen, and two minor children, born June 6, 1982, and August 10, 1983, applied for the following:

- (a) a grant of Aid to Dependent Children;
- (b) Medical Assistance; and
- (c) emergency assistance to avoid eviction.

2. The agency failed to act upon the appellant's application and told her to come back when she had a seventy-two hour eviction notice.

3. On January 9, 1985, appellant again applied for Public Assistance, Medical Assistance and emergency assistance and submitted to the agency her seventy-two hour notice of eviction.

4. On February 8, 1985, appellant requested a fair hearing to review the agency's denials and in addition, the agency's failure to provide a supplemental grant for furniture, a restaurant allowance and reimbursement for monies advanced by Catholic Charities.

5. The agency stipulated, at the hearing, to provide the appellant with a grant of Aid to Dependent Children and Medical Assistance, retroactive to January 9, 1985, in connection with appellant's second application on that date.

6. At the time of both applications, and at the present time, the appellant had no income or resources and was in need of Public Assistance.

7. Appellant was also in need of emergency housing, as she had no friends or relatives willing or able to house her. She was evicted in mid January, 1985. She has made diligent, though unsuccessful, efforts to obtain permanent housing.

8. The agency failed to assist the appellant in securing suitable, alternative shelter for herself and her two infant children.

9. The agency failed to provide the appellant with a transportation allowance to enable her to secure permanent housing.

10. The agency failed to provide the appellant with a restaurant allowance since mid-January, 1985, when she was evicted, and had no home in which to prepare meals.

11. Catholic Charities of Rockville Center, loaned the appellant funds for restaurant, meals and transportation since February 6, 1985, and for motel lodging since February 13, 1985.

New York State Department of Social Services Administrative Directive 83 ADM-47, effective October 1, 1983, provides guidance to local districts regarding their responsibilities for emergency housing for homeless persons. For purposes of this Administrative Directive, a "homeless person(s)" is defined as a person or family who is undomiciled or living in a temporary shelter. Emergency housing must either be provided immediately if a homeless person is determined eligible or written notice must be given that no assistance will be provided, where a homeless person is determined ineligible.

Department Regulations 352.3(e) and (f) authorize local district payment of allowances for homeless persons temporarily housed in hotel or motel facilities when no other suitable housing, either public or private, is available. Regulations further authorize restaurant allowances for persons temporarily housed in hotel/motel accommodations without cooking facilities, when accommodations with such facilities are not available.

Section 352.3(e) of the Regulations provides, in part, that an allowance for shelter shall be made for recipients of Public Assistance temporarily housed in hotel/motel facilities when no other suitable housing, either public or private, is available to house the recipient.

Section 352.6(f) of the Regulations provides that an allowance for storage of furniture and personal belongings shall be made when it is essential for circumstances such as relocation, eviction or temporary shelter, so long as eligibility for Public Assistance continues, and so long as the circumstances necessitating the storage continue to exist.

Section 352.2(d) of the Regulations provides that a supplemental allowance and grant may not be made other than is authorized under the Regulations. Section 352.7(a) of the Regulations provides for the issuance of a grant for furniture under the following circumstances:

(i) An individual or family temporarily housed in a hotel or motel is being permanently rehoused in unfurnished housing accommodations, and suitable furnished accommodations are not available;

(ii) An unattached individual, whose needs cannot otherwise be met under Emergency Assistance to Adults, is discharged from an institution, is determined to be capable of maintaining an apartment in the community, and suitable furnished accommodations are not available;

(iii) An adult, whose needs cannot otherwise be met under Emergency Assistance to Adults, is discharged from an institution and wishes to rejoin his family, which is in need of additional furniture to provide adequate shelter for him;

(iv) A child is returned to his parents, who are in need of additional furniture to provide adequate shelter for him; and

(v) An individual's or family's living situation adversely affects the physical and mental health of that individual or family, and it is essential that the individual or family be rehoused in unfurnished accommodations in order to safeguard his or their health, safety and well-being.

Section 352.7(c) of the Department's Regulations provides that the agency shall provide for the additional costs of meals for persons unable to prepare meals at home in accordance with the schedules set forth in the Department's Regulations.

Inasmuch as the agency has made the above stipulation concerning the second application for a grant of Aid to Dependent Children and Medical Assistance, there remains no issue to be decided thereon.

The credible evidence establishes that December 4, 1984, was the date of the appellant's first contact with the agency. When appellant attempted to submit an application for Public Assistance, Medical Assistance, Food Stamps, and Emergency Assistance, her application was not accepted for processing and appellant was told to come back to apply when she had a seventy-two hour eviction notice. The agency's failure to accept the application was clearly improper. Even if appellant had only applied for Emergency Assistance to avoid the eviction, the agency's action would have been improper, since it should have accepted the application, and, if appellant had no current emergency, issued a written denial. In this case, however, the appellant also applied for Public Assistance, Medical Assistance and Food Stamps, and the agency should have processed her application. The appellant had no income or resources when she applied, and the agency is therefore directed to accept her application retroactive to December 4, 1984, and provide her with assistance in accordance with her verified degree of need.

The credible evidence further establishes that ever since mid January, 1985, when she was evicted, the appellant was in need of emergency housing, as she had

no friends or relatives willing or able to house her. The agency representative stated that appellant's mother's home was available to her. Such is not the case. Appellant credibly testified that her mother has one bedroom in her (mother's) ex-husband's home, and appellant and her children cannot stay there.

The appellant credibly testified that the agency referred her to three housing units, Bethany House, the Inn in Uniondale and a furnished room at _____ Street, in _____, New York, none of which were suitable. Bethany House and the Inn only provide overnight accommodations; Bethany House requires its clients to leave between 9:30 a.m. and 5:30 p.m. Appellant credibly testified that she had nowhere to go with her two children, ages one and two, during the day time, and Bethany House refused to allow her to stay there during the day. The Inn at Uniondale has the same policy. Appellant went to Catholic Charities when she was unable to secure assistance from the agency, and that agency loaned her funds to pay for a hotel room, for restaurant expenses, and for traveling expenses she incurred in her search for housing. The agency did refer appellant to a furnished room, but the room had no linens, was infested with vermin and rodents, and was not suitable. Appellant informed the agency on several occasions of the unsuitability of Bethany House to meet her family's housing needs.

Accordingly, the determinations of the agency under the particular circumstances herein, were not correct. The agency is directed to provide the appellant with a grant of Aid to Dependent Children, retroactive to December 4, 1984, in accordance with her verified degree of needs and with Medical Assistance, pursuant to Section 360.16(c) of the Regulations and is further directed to provide the appellant with restaurant allowances and transportation allowances and an allowance for shelter at a motel since February 13, 1985. The agency must also provide appellant with temporary emergency housing as directed by 83 ADM-47. Should the agency again refer appellant to Bethany

House, it must make appropriate child care arrangements during the daytime.

As to the appellant's allegation that the agency improperly failed to provide her with an allowance for storage of her furniture, appellant admitted that she never requested storage fees. Furthermore, appellant did not request a furniture allowance of the agency prior to this hearing, and indeed has not yet secured permanent furnished or unfurnished accommodations. Her request at this time, is therefore premature.

DECISION: There is no issue to be decided concerning the denial of the application on January 9, 1985, for a grant of Aid to Dependent Children and Medical Assistance. The agency's determination denying the application on December 4, 1984, for a grant of Aid to Dependent Children, Food Stamps and Medical Assistance was not correct. The agency's denial of appellant request for Emergency Assistance was not correct and it is directed to provide her with retroactive reimbursement for hotel expenses, a restaurant allowance, transportation expenses incurred in obtaining housing, and to immediately provide her with appropriate assistance in obtaining emergency housing. The agency must immediately comply with the directives set forth above as required by Section 358.22 of the Department's Regulations.

DATED: Albany, New York

MAR 12 1985

CESAR A. PERALES
COMMISSIONER

BY *Femela Tindall Green*
Commissioner's Designee