

STATE OF NEW YORK
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

REQUEST: May 10, 2007
CASE #: Pxxxxxx
AGENCY: Nassau
FH #: 4786199H

In the Matter of the Appeal of
AC
from a determination by the Nassau County
Department of Social Services

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**DECISION
AFTER
FAIR
HEARING**

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 October 1, 2007, in Nassau County, before Jonathan Kastoff, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

AC, Appellant;
Kristen Drumm, Representative

For the Social Services Agency

Lisa Amato,
Stephanie Kaufman,
Georgia Pamboris, Fair Hearing Representatives;
Gerard Monsanto, Witness

ISSUE

Was the Agency's determination to deny the Appellant's application for Public Assistance for failure to provide documentation necessary to determine the Appellant's eligibility for such benefits correct?

Was the Agency's determination to deny the Appellant's application for Public Assistance and Food Stamps on the grounds that the Appellant failed to comply with employment program requirements correct?

FINDINGS OF FACT

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 applied for Public Assistance benefits for a household of three persons on January 12, 2007.

2. The Appellant was advised by the Agency on February 28, 2007 to submit the following documentation to the Agency by March 10, 2007:

Status of application for Unemployment Insurance Benefits (UIB).

3. The Appellant failed to submit the requested documentation.

4. On March 17, 2007 the Agency sent a Denial Notice setting forth its determination to deny the Appellant's application for Public Assistance benefits because the Appellant failed to submit requested documentation.

5. The Appellant applied for Public Assistance and Food Stamp benefits for a household of three persons in May, 2007.

6. On May 11, 2007 the Agency sent a Denial Notice setting forth its determination to deny the Appellant's application for Public Assistance and Food Stamp benefits because the Appellant failed to comply with employment program requirements.

7. On May 10, 2007, the Appellant requested this fair hearing.

APPLICABLE LAW

Regulations at 18 NYCRR 351.1 and 351.2 require that to demonstrate eligibility, applicants for and recipients of Public Assistance must present appropriate documentation of such factors as identity, residence, family composition, rent payment or cost of shelter, income, savings or other resources and, for aliens, of lawful residence in the United States. These obligations also apply to non-legally responsible caretaker relatives of children receiving public assistance, as well as minor siblings of such children residing in the same household. Section 351.5 of the Regulations provides that if the applicant or recipient has previously verified necessary information which is not subject to change and the Agency possesses documentation of such verification in its files, the applicant or recipient is not required to resubmit verification of such information. Section 351.6 of the Regulations provides that verification of data is an essential element of the eligibility investigation process. The applicant or recipient is the primary source of the required information. However, when the applicant or recipient is unable to provide the required verification, the Agency must assist the applicant or recipient in obtaining the verification or make collateral investigation. 18 NYCRR 351.5 and 351.6. If a third party seeks to impose a charge or fee for providing required information to the applicant or recipient, the Agency must

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pay such fee or must assist the applicant or recipient in obtaining the information by other means. 18 NYCRR 351.5. The applicant's or recipient's failure or refusal to cooperate in providing necessary information is a ground for denying or discontinuing Public Assistance.

An applicant for or recipient of public assistance is exempt from complying with any requirement concerning eligibility for public assistance if the applicant or recipient establishes that good cause exists for failing to comply with the requirement. Except where otherwise specifically set forth in regulations, good cause exists when the applicant or recipient has a physical or mental condition which prevents compliance; the applicant's or recipient's failure to comply is directly attributable to Agency error; or other extenuating circumstances, beyond the control of the applicant or recipient, exist which prevent the applicant or recipient from being reasonably expected to comply with an eligibility requirement. The applicant or recipient is responsible for notifying the Agency of the reasons for failing to comply with an eligibility requirement and for furnishing evidence to support any claim of good cause. The Agency must review the information and evidence provided and make a determination of whether the information and evidence supports a finding of good cause. 18 NYCRR 351.26.

DISCUSSION

The Appellant was requested to verify the status of her UIB application. The appellant failed to submit the requested documentation and failed to request additional time from the Agency within which to submit the documentation. Therefore, the agency's determination to deny the Appellant's January 12, 2007 application for Public Assistance was correct when made on March 17, 2007.

However, at the Appellant testified that she did not submit the requested documentation because she failed to receive the Agency's request for the documentation in the mail. The Agency had mailed the request to the Appellant's address of record through normal Agency mailing procedures. The Appellant testified that she resides in an apartment house with approximately twelve tenants. The Appellant further testified that each apartment has a separate mail box, but that mail is often misdirected to a different apartment by the postal worker. The Appellant's testimony was consistent as to detail, plausible and persuasive. The Appellant presented sufficient evidence to establish good cause for the Appellant's failure to submit requested documentation to the agency. Therefore, the Agency's determination to deny the Appellant's application for Public Assistance cannot be sustained at this time.

At the hearing the Agency agreed to withdraw its notice dated May 11, 2007, to determine the Appellant's eligibility to receive Public assistance and Food Stamps, and to notify the Appellant, in writing, of the Agency's determination. The Appellant accepted the Agency's agreements as a resolution of the Appellant's remaining request for review. There are no further issues left to be decided.

DECISION AND ORDER

The Agency's determination to deny the Appellant's application for Public Assistance benefits was correct when made.

1. However, the Agency is directed to continue to process the Appellant's application, to afford the applicant the opportunity to submit any other documents necessary to establish eligibility, and then to determine the Appellant's eligibility to receive Public Assistance.

2. The Agency is further directed to notify the Appellant in writing of its determination.

In accordance with its agreements made at the hearing, the Agency is directed to take the following action if it has not yet already done so:

1. Withdraw its notice dated May 11, 2007; determine the Appellant's eligibility to receive Public Assistance and Food Stamps; and, notify the Appellant, in writing, of the Agency's determination.

Should the Agency need additional information from the Appellant in order to comply with the above directives, it is directed to notify the Appellant promptly in writing as to what documentation is needed. If such information is requested, the Appellant must provide it to the Agency promptly to facilitate such compliance.

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

DATED: Albany, New York
October 3, 2007

NEW YORK STATE OFFICE OF
TEMPORARY AND DISABILITY ASSISTANCE

By

[[Signature]]

Commissioner's Designee