
In the Matter of the Appeal of :
: :
: :
E C : DECISION
: AFTER
: FAIR
from a determination by the New York City : HEARING
Department of Social Services :
: :
:

JURISDICTION

This appeal is from a determination by the local Social Services Agency to reduce the Appellant's Public Assistance without prior notice to the Appellant.

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of the Regulations of the New York State Department of Social Services (Title 18 NYCRR, hereinafter Regulations), a fair hearing was held on June 9, 1989, in New York City, before Mitchell Goler, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

E C

For the Local Social Services Agency

Harold Finkelstein

FACT FINDING

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 has been in receipt of Public Assistance benefits.
2. Effective May 1, 1989, the Agency reduced the Appellant's Public Assistance benefits without notice.

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3. The Appellant had been receiving Public Assistance benefits in the semi-monthly amount of \$129.20 prior to the reduction.

4. The Agency reduced the Appellant's semi-monthly Public Assistance benefits to \$116.65.

5. The Appellant requested this fair hearing to contest the Agency's determination.

ISSUE

Was the determination of the Agency to reduce the Appellant's Public Assistance benefits correct?

APPLICABLE LAW

Department regulations at 18 NYCRR 358-3.3(a) provide that a recipient of Public Assistance, Medical Assistance or services has a right to notice when the agency:

- (i) proposes to take any action to discontinue, suspend, or reduce a Public Assistance grant, Medical Assistance authorization or services; or
- (ii) proposes to change the manner or method or form of payment of a Public Assistance grant; or
- (iii) determines that the recipient of Aid to Dependent Children or Home Relief is employable; or
- (iv) determines to restrict a Medical Assistance authorization.
- (v) accepts or denies an application for Public Assistance, Medical Assistance or services; or
- (vi) increases a Public Assistance grant; or
- (vii) determines to change the amount of one of the items used in the calculation of a Public Assistance grant or Medical Assistance spenddown although there is no change in the amount of the Public Assistance grant or Medical Assistance spenddown.

DISCUSSION

The uncontroverted evidence establishes that effective May 1, 1989, the Agency, without sending any notice, reduced the Appellant's semi-monthly Public Assistance benefits.

The Agency's failure to give timely and adequate notice of its proposed actions violates Department Regulations at 18 NYCRR 358-3.3(a).

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DECISION AND ORDER

The determination of the Agency to reduce the Appellant's Public Assistance benefits without notice is not correct and is reversed.

1. The Agency is directed to restore the Appellant's Public Assistance retroactive to May 1, 1989, the date the Appellant's Public Assistance benefits were reduced.

2. Should the Agency in the future determine to implement its previous action, it is directed to issue a timely and adequate Notice of Intent.

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

DATED: Albany, New York

CESAR A. PERALES
COMMISSIONER

By



Commissioner's Designee

JUN 22 1989