

In the Matter of the Appeal of

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from a determination by the New York City Department  
of Social Services (hereinafter called the agency)

:  
DECISION  
: AFTER  
FAIR  
HEARING

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A fair hearing was held at 80 Centre Street, New York, New York, on July 24, 1984, before Clyde Willis, Administrative Law Judge, at which the appellant, the appellant's representative and a representative of the agency appeared. The appeal is from a determination by the agency relating to the discontinuance of a grant of Aid to Dependent Children, Medical Assistance and Authorization to Participate in the Food Stamp Program, the adequacy of a grant of Aid to Dependent Children and the adequacy of 1984 Home Energy Assistance Program benefits. 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. The appellant is in receipt of a grant of Aid to Dependent Children for herself and three children. Also in the household is the appellant's husband, a Supplemental Security Income recipient.
2. The appellant requested a fair hearing to review the following:
  - a) the agency's determination to discontinue the appellant's grant of Aid to Dependent Children, Medical Assistance and Authorization to Participate in the Food Stamp Program, effective June, 1984, without notice;
  - b) the failure of the agency to change the appellant's address in the case record;
  - c) the adequacy of 1984 Home Energy Assistance Program benefits;
  - d) the failure of the agency to classify the appellant's case as homebound;
  - e) the agency's determination, on June 13, 1984, to reduce the

appellant's semi-monthly grant from \$290.50 to \$171.50 due to the removal of rent from the budget; and

- f) the agency's determination to reduce the appellant's semi-monthly grant from \$290.50 to \$253.50, without notice, effective with the first semi-monthly check in June, 1984.

3. At the hearing, the appellant withdrew her request for a fair hearing on the issue of the discontinuance of her grant of Aid to Dependent Children, Medical Assistance and Authorization to Participate in the Food Stamp Program effective June, 1984, except as to the issue of non-receipt of Food Stamps for the month of June, 1984.

4. The appellant did not receive an Authorization to Participate in the Food Stamp Program for the month of June, 1984.

5. The appellant moved in March, 1984.

6. At the hearing, the agency stipulated to restore the appellant's Authorization to Participate in the Food Stamp Program for the month of June, 1984, to verified degree of need, to change the appellant's address in the case record, if not already done so, and to classify the case as homebound.

7. The appellant received 1984 Home Energy Assistance Program benefits of \$155.00.

8. Effective March, 1984, the appellant pays for gas heat. Prior to March, 1984, the appellant paid for oil heat, and the agency was aware of it.

9. The agency determined to reduce the appellant's semi-monthly grant from \$290.50 semi-monthly to \$253.50 semi-monthly, effective with the first semi-monthly check in June, 1984, without notice. The appellant received \$253.50 as her Public Assistance check for the second semi-monthly period in June, 1984, and \$140.60 as her Public Assistance check for the first semi-monthly period in July, 1984.

10. On June 13, 1984, effective June 24, 1984, the agency determined to reduce the appellant's semi-monthly grant from \$290.50 semi-monthly to \$171.50 semi-monthly due to removal of rent from the budget.

11. The agency has stipulated, at the hearing, to withdraw the notice of June 13, 1984, and to restore the appellant's assistance retroactively from the date of the agency's action, and to provide full assistance to the appellant as a result of the case of Rodriguez v. Blum.

Inasmuch as the agency has made the above stipulation, there remains no issue to be decided concerning the agency's June 13, 1984, notice. It is noted that should the agency determine to implement its previously contemplated action, a new Notice of Intent is required and the procedures contained in the case of Rodriguez v. Blum must be followed.

Due to the above agency stipulations there is likewise no issue to be decided concerning the non-receipt of an Authorization to Participate in the Food Stamp Program for the month of June, 1984, the failure of the agency to change the appellant's address in the case record, and the failure of the agency to classify the appellant's case as homebound. The agency is directed to provide assistance and take action as stipulated to at the hearing, pursuant to Section 358.22 of the Regulations of the State Department of Social Services.

The Low Income Energy Assistance Program (PL 97-35) is a federal program for the purpose of providing low income households with assistance in meeting energy needs.

The New York State Department of Social Services has been designated to administer the program entitled HEAP, and the State plan for the program has been filed with the United States Department of Health and Human Services. Pursuant to this plan, Public Assistance recipients received automatic 1984 Home Energy Assistance Program benefits. If the recipient household paid for

utilities, but did not pay for heating fuel, they were eligible for 1984 Home Energy Assistance Program benefits of \$155.00. If the recipient household paid for heating fuel separate from the rent, and heated their homes with gas they were eligible for 1984 Home Energy Assistance Program benefits of \$200.00. If the recipient household paid for heating fuel separate from the rent and heated their homes with oil or electricity, they were eligible for 1984 Home Energy Assistance Program benefits of \$230.00.

In the instant case, the credible evidence established that the appellant received 1984 Home Energy Assistance Program benefits of \$155.00. The credible evidence further established that the agency was aware that the appellant paid separately for oil heat. Accordingly, the agency's determination to provide the appellant with 1984 Home Energy Assistance Program benefits of \$155.00 was not correct. The appellant is eligible to receive 1984 Home Energy Assistance Program benefits of \$230.00. The agency is, therefore, directed to provide the appellant with supplemental 1984 Home Energy Assistance Program benefits of \$75.00, pursuant to the provisions of the Home Energy Assistance Program Manual and the Regulations.

Section 358.8(a) of the Regulations provides that, in cases of any proposed action to discontinue or reduce assistance payments, timely and adequate advance notice thereof, detailing the reasons for the proposed action, shall be sent to the recipient.

In this case, the credible evidence establishes that the agency, without notice or reason, reduced the appellant's semi-monthly grant from \$290.50 to \$253.50 effective with the first semi-monthly check in June, 1984. Therefore, the determination of the agency to reduce the appellant's assistance was not proper. The agency is directed to cease further reduction of appellant's grant and to restore the appellant's assistance retroactively from the date of agency's

action and to provide full assistance to the appellant. It is noted that should the agency determine to implement its previous action, a Notice of Intent detailing the reason for the proposed action is required. It is also noted that the appellant is entitled to the reasonable costs of transportation, pursuant to Section 358.10 of the Department's Regulations. It appears that the appellant submitted a bill for \$42.00 but only \$40.00 was reimbursed. The agency is directed to provide the appellant the additional two dollars.

DECISION: There is no issue to be decided concerning the agency's determination to discontinue the appellant's grant of Aid to Dependent Children, Medical Assistance and Authorization to Participate in the Food Stamp Program effective June, 1984, the failure of the agency to change the appellant's address in the case record, the failure of the agency to classify the appellant's case as homebound and the agency's determination on June 13, 1984, to reduce the appellant's semi-monthly grant from \$290.50 to \$171.50 due to the removal of rent from the budget. The agency, however, is directed to provide all assistance and take all actions as stipulated to at the hearing, pursuant to Section 358.22 of the Regulations. The agency's determination to provide the appellant 1984 Home Energy Assistance Program benefits of \$155.00 and the agency's determination to reduce the appellant's semi-monthly grant from \$290.50 to \$253.50, effective with the first semi-monthly check in June, 1984, without notice are not correct and are reversed. 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

**AUG 29 1984**

CESAR A. PERALES,  
COMMISSIONER

By   
Commissioner's Designee