

In the Matter of the Appeal of

L B

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

:
:
DECISION
: AFTER
FAIR
HEARING
:

JURISDICTION

This appeal is from a determination by the local Social Services Agency relating to the adequacy of Appellant's Public Assistance benefits on the grounds that the Agency did not fully reimburse the Appellant for child care expenses incurred when she attended a previous fair hearing.

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 16 NYCRR, hereinafter Regulations), a fair hearing was held on August 12, 1987, at Mineola, New York, before Richard S. Levchuck, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

L B, Appellant
Robin Sparks, Appellant's
Representative

For the Local Social Services District (Agency)

Sonia Rankin FH Representative

FACT FINDINGS

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 a grant of Home Relief for herself, her husband, their six minor children and her minor grandchild.
- (2) On June 9, 1987, the Appellant attended a fair hearing at Mineola, New York. The Appellant incurred the sum of \$15.00 in child care expenses for her six month old grandchild as a result of her attendance at the hearing.
- (3) At the conclusion of her fair hearing, the Appellant submitted a letter to the Agency, from her babysitter, indicating that the Appellant was being charged the

sum of \$5.00 per hour.

(4) The Agency determined to issue the Appellant the sum of \$2.40 for child care expenses based on a rate of sixty cents per hour per child for the four hours it took for the Appellant to travel to, and attend, her fair hearing.

(5) On July 15, 1987, the Appellant requested this hearing to review the Agency's determination.

ISSUE

Was the determination of the Agency as to the adequacy of its reimbursement of child care expenses incurred by the Appellant as a result of her attendance at a previous fair hearing correct?

APPLICABLE LAW

Department Regulations at 18 NYCRR 358.10 require the Agency, if requested, to provide child care and other costs and expenditures reasonably related to the Appellant to enable his attendance at a fair hearing.

DISCUSSION

The uncontroverted evidence, in this case, establishes that on June 9, 1987, the Appellant attended a fair hearing at Mineola, New York. The Appellant incurred the sum of \$15.00 in child care expenses for her six month old grandchild as a result of her attendance at this hearing. At the conclusion of her fair hearing, the Appellant submitted a letter to the Agency, from her babysitter, indicating that the Appellant was being charged the sum of \$5.00 per hour.

The Agency determined to issue the Appellant the sum of \$2.40 for child care expenses based on a rate of sixty cents per hour per child for the four hours it took the Appellant to travel to, and attend, her fair hearing. However, pursuant to the above-cited authority, such reimbursement must be "reasonably" related to the hearing. The Agency presented no evidence at the hearing that the rate of sixty cents per hour per child was a reasonable rate of reimbursement for the area in which the services were rendered. No evidence was introduced as to the prevailing rate for babysitting.

or the basis for its policy. In the absence of such evidence, the Agency's determination must be considered an abuse of discretion.

DECISION AND ORDER

The determination of the Agency is not correct and is reversed.

The Agency is directed to provide reimbursement to Appellant for actual child care costs necessary to attend the fair hearing.

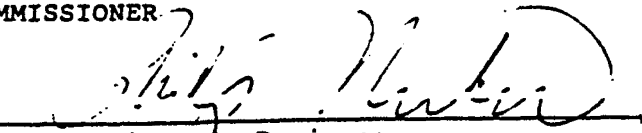
As required by Department Regulations at 18 NYCRR 358.22, the Agency must comply immediately with the directives set forth above.

DATED: Albany, New York

CESAR A. PERALES,
COMMISSIONER

SEP 02 1987

By


Commissioner's Designee