



NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE  
40 NORTH PEARL STREET  
ALBANY, NEW YORK 12243-0001

George E. Pataki  
Governor

Robert Doar  
Commissioner

April 4, 2005

Eugene Doyle  
Executive Director  
P.O.O.R.  
102-12 164<sup>th</sup>. Avenue  
Hamilton Beach, NY 11414-1010

Dear Mr. Doyle:

This is in response to your January 5, 2005, letter regarding access to policy documents needed to determine whether a fair hearing should be requested or to prepare for a fair hearing. I hope you agree with me that the telephone conversation Dottie Mullooly and I had with you on March 24 was very helpful in clarifying various issues for all of us.

I am happy to inform you that we have begun the process of revising the fair hearing language on our CNS and manual notices, and will direct HRA to add the same language to their manual notices. We also will update the Client Informational Booklets by adding similar language to the Booklets at their next revision. Additionally, we will be addressing your concerns with HRA at our next monthly policy meeting, and will also discuss the possibility of putting their procedures on their internet for public access. Another thing that we plan to do is issue an administrative directive reminding districts of their obligations in this area and providing guidance to them.

In your letter you state your concern that our interpretation of "specific policy material" may be too narrow. We agree that a recipient or his or her representative does not have to specifically identify material by its official title or number/date. It is sufficient for the request to state a specific policy area related to the issues in the fair hearing. The request should be as concise and specific as possible. To the extent requests are voluminous and unwieldy, nobody will be well served.

I would like to hear any suggestions you may have on how best to balance the competing interests of a client's access to necessary information with the administrative burden on districts with limited resources.

Our interpretation of 18 NYCRR 300.5 (b) is that "specific policy material" means State issued regulations and policy materials, as well as State approved local policies, procedures or plans. These would include such items as a district's Employment Plan, FEDS Plan, rental supplement plans, etc. These materials must be provided to recipients or their representatives free of charge for the purpose of determining whether a fair hearing should be requested or to prepare for a fair hearing.

*"providing temporary assistance for permanent change"*

18 NYCRR 300.6 requires districts to submit to OTDA local policies and procedures which are outside of, but pertinent to, rules, regulations and procedures that are mandated or recommended by OTDA. It does not cover policies or procedures that implement State mandated or recommended rules, regulations and procedures or local operational procedures. Anything that is not a State rule, regulation, policy or State approved local policy or plan does not fall under 18 NYCRR 300.5 (b) and must be requested through the FOIL process. If a local district does have local procedures that have not been submitted to OTDA for approval and they deviate from State regulations and policy, than those policies and procedures may be in violation of State regulations and policy.

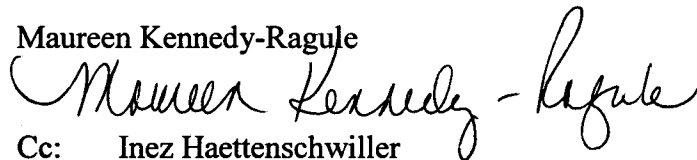
We agree with you that the Energy Manual should be on the internet and have requested that it be placed there. By the time you receive this letter, it may already be there.

As you know, any issues you have with the Medicaid program or Medicaid policies, procedures or what is on the DOH website must be addressed to DOH as we have no authority over that program. I have shared copies of your correspondence with DOH.

I hope that we can continue our dialogue on these issues.

Sincerely,

Maureen Kennedy-Ragule



Cc: Inez Haettenschwiller  
Rus Sykes  
Bob Sharkey  
Dottie Mullooly