

In the Matter of the Appeal of

L T

from a determination by the New York City 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 denial of appellant's application for Emergency Assistance on the grounds that she was ineligible for replacement of stolen cash and Food Stamp coupons.

Pursuant to the New York State Social Services Law (hereinafter Social Services Law), Section 22 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 December 23, 1986, at 80 Centre Street, New York, New York, before Yvette Pomeranz, Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant

L T, Appellant
Eugene Doyle, Appellant's
Representative

For the Local Social Services District (Agency)

Barbara Sirkin, Agency 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, age twenty-eight, is currently in receipt of a grant of Aid to Dependent Children for herself, her husband, age thirty-two and their two children, ages seven and six.

(2) On December 11, 1986, appellant requested Emergency Assistance to replace the stolen proceeds of her Public Assistance grant for the first half of December, 1986, and her stolen Food Stamp coupons for December, 1986. The agency denied this request on December 15, 1986.

(3) On December 8, 1986, appellant received the proceeds of her Public Assistance grant for the first half of December, 1986, in the amount of \$271.00. She also received Food Stamp coupons for December, 1986, in the amount of \$203.00.

(4) On December 10, 1986, \$250.00 in cash and \$200.00 in Food Stamp coupons were stolen from the appellant. She reported this to the police and verified her report to the agency on December 11, 1986. Appellant also prepared a written account describing the theft, pursuant to the agency's request.

(5) Appellant borrowed \$450.00 from her representative's organization to meet her family's needs after the agency failed to provide an emergency grant to repay the stolen cash and Food Stamp coupons. She is obliged to repay this amount.

(6) On December 16, 1986, appellant requested this fair hearing to review the agency's determination.

ISSUE

(1) Was the agency correct in denying appellant's application for a grant of Emergency Assistance to replace the stolen proceeds of her Public Assistance grant?

(2) Was the agency correct in denying appellant's request for replacement of stolen Food Stamp coupons?

APPLICABLE LAW

Section 350-j(2) of the Social Services Law provides for a grant of Emergency Assistance to Families where emergency needs resulted from a catastrophic occurrence or from a situation which threatens family stability and which has caused the

destitution of a child and/or household. Section 372.1 of the Regulations of the State Department of Social Services provides for Emergency Assistance to Families for families who otherwise qualify under that Section, to deal with crisis situations threatening the family, and to meet urgent needs resulting from a sudden occurrence or set of circumstances demanding immediate attention.

Administrative Directive 81 ADM-67, dated December 31, 1981, as amended by 83 ADM-49, dated September 30, 1983, provides that the agency shall provide Emergency Assistance for Families to an Aid to Dependent Children recipient who is otherwise qualified where need for Emergency Assistance for Families resulted from the loss or theft of a regular Public Assistance grant. Administrative Directive 81 ADM-67 and 83 ADM-49, further provide that the agency must use reasonable verification techniques to assure the validity of the claimed loss or theft which techniques include a requirement that the alleged theft be reported to the local police agency.

Section 372.4 of the Regulations of the State Department of Social Services provides in pertinent part that the scope of an Emergency Assistance to Families grant is limited to the standards contained in Part 352 of the Regulations for regularly recurring Public Assistance.

Pursuant to Section X F-1 of the New York State Department of Social Services Food Stamp Source Book, Food Stamps which have been reported lost or stolen after receipt cannot be replaced.

DISCUSSION

The credible evidence of record establishes that on December 10, 1986, appellant was the victim of a theft in which \$250.00 of the cash proceeds of her Public Assistance grant for the first half of December, 1986, and \$200.00 of her

December, 1986, Food Stamp coupons were stolen. Appellant reported this to the police and documented such report to the agency. She also provided the agency with a written account of the circumstances of the theft. The agency denied replacement of the stolen cash, apparently because of a misunderstanding resulting from appellant's departure from the income maintenance center, unaware that further questions were to be asked of her. In any event, appellant is clearly eligible for an Emergency Assistance to Families grant in replacement of the stolen cash, notwithstanding her receipt of a loan from her representatives organization subsequent to the agency's improper denial.

As conceded by appellant's representative, stolen Food Stamp coupons cannot be replaced pursuant to Section X F-1 of the Food Stamp Source Book. While he contends that the theft of Food Stamp coupons places appellant's family in an emergency situation and that the agency should replace the stolen coupons in the form of an Emergency Assistance to Families grant, this argument is not persuasive. The scope of an Emergency Assistance to Families grant is limited to the Public Assistance standards and has no relationship to Food Stamps in this regard.

DECISION AND ORDER

(1) As to the denial of replacement of stolen cash, the agency's determination is not correct and is reversed.

(2) As to the denial of replacement of Food Stamp coupons, the agency's determination is correct.

The agency is directed to provide appellant with an Emergency Assistance to Families grant of \$250.00 in replacement of stolen cash.

L T

(5)

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

DEC 31 1986

CESAR A. PERALES,
COMMISSIONER

BY Merry E. Hoyman
Commissioner's Designee