

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: December 6, 2019

AGENCY: MAP

FH #: 8073426Q

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

JURISDICTION

Pursuant to Section 22 of the New York State Social Services Law (hereinafter Social Services Law) and Part 358 of Title 18 NYCRR, (hereinafter Regulations), a fair hearing was held on January 16, 2020, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For the Managed Care Plan (Centers Plan for Healthy Living)

On papers only - Plan appearance waived by the Office of Administrative Hearings

ISSUE

Did the Managed Care Plan, Centers Plan for Healthy Living, fail to act on the Appellant's application for a motorized scooter and ramp?

FINDINGS OF FACT

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 51, has been in receipt of Medicaid benefits provided through a Medicaid Managed Care Plan, Centers Plan for Healthy Living (hereinafter "the Plan").

2. On December 6, 2019, the Appellant requested this fair hearing.

APPLICABLE LAW

Section 360-2.4 of 18 NYCRR provides that eligibility for a Medical Assistance Authorization must be determined within 45 days of application. However where Medical Assistance eligibility is dependent on disability status the agency must determine eligibility within ninety days of application. Where an applicant for Public Assistance is determined ineligible for such benefits, the agency must make a separate determination of Medical Assistance eligibility within thirty days of the date the application for Public Assistance was denied. If timely action was not taken on the Public Assistance application, the agency must determine eligibility within thirty days of the date when action should have been taken. The district must determine eligibility within thirty days of the date of a Medical Assistance application if an applicant is a pregnant woman or an infant younger than one year of age whose household income does not exceed 185 percent of the applicable Federal poverty level; the applicant is a child at least one year of age but younger than six years of age whose household income does not exceed 133 percent of the applicable Federal poverty level; or the applicant is a child born after September 30, 1983 who is at least six years of age but younger than 19 years of age whose income does not exceed 100 percent of the applicable Federal poverty level.

Section 360-2.4 of 18 NYCRR provides that eligibility for a Medical Assistance Authorization must be determined within 45 days of application. However, where Medical Assistance eligibility is dependent on disability status the agency must determine eligibility within ninety days of application. The district must determine eligibility within thirty days of the date of a Medical Assistance application if an applicant is a pregnant woman or an infant younger than one year of age whose household income does not exceed 200 percent of the applicable Federal poverty level; or the applicant is a child at least one year of age but younger than nineteen years of age whose household income does not exceed 133 percent of the applicable Federal poverty level.

An applicant or recipient has the right to challenge certain determinations or actions of a social services agency or such agency's failure to act with reasonable promptness or within the time periods required by other provisions of this Title, by requesting that the OAH provide a fair hearing. 18 NYCRR 358-3.1.

DISCUSSION

The record establishes that the Appellant has been in receipt of Medicaid benefits provided through a Medicaid Managed Care Plan, Centers Plan for Healthy Living (hereinafter "the Plan").

The Appellant requested this fair hearing claiming that she has been requesting from the Plan, through her physician, a motorized scooter and a ramp for the past five years. At the

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hearing, the Appellant claimed that she has been asking her doctor for a replacement motorized scooter and a ramp several times over the past five years, to which her doctor has responded that she will send the request and supporting documents to the Plan.

The regulations above provide that an applicant or recipient has the right to challenge certain determinations or actions of a social services agency or such agency's failure to act with reasonable promptness or within the time periods required by other provisions of this Title.

In this case, the Appellant did not establish that the Plan failed to act on her application inasmuch as there is no credible evidence that any such application was made to the Plan. Since there is no record of an application, there is no failure to act. Consequently, there is no relief to grant the Appellant.

DECISION

The Commissioner has no authority to grant the requested relief.

DATED: Albany, New York
01/24/2020

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to be "L. J. S.", written over a faint circular stamp.

Commissioner's Designee