

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: December 27, 2017

AGENCY: MAP

FH #: 7673169Q

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 February 5, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For the Social Services Agency

S. Davis, Fair Hearing Representative

ISSUE

Was the Agency's determination to discontinue the Appellant's household's Medical Assistance on the ground that the Appellant failed to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form correct?

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's household has been in receipt of Medical Assistance.

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2. The Agency notified the Appellant to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form by December 10, 2017, to establish the Appellant's continuing eligibility for Medical Assistance.

3. By Notice of Intent dated December 21, 2017, the Agency informed the Appellant of its intention to discontinue the Appellant's household's Medical Assistance effective January 3, 2018, because the Appellant failed to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form by December 10, 2017.

4. The Appellant returned the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form.

5. The Agency received the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form.

6. On December 27, 2017, the Appellant requested this fair hearing.

APPLICABLE LAW

Section 360-2.3 of the Regulations provides the Agency has a continuing obligation to collect, verify, record and evaluate factual information concerning a recipient's eligibility for Medical Assistance. Section 360-2.2(e) of the Regulations require social services districts to redetermine a recipient's eligibility at least once every 12 months and whenever there is a change in the recipient's circumstances that may affect eligibility. The district may redetermine eligibility more frequently.

Under section 366-a(5) of the Social Services Law, continuing eligibility for assistance must be reconsidered from time to time, or as frequently as required by the regulations of the New York State Department of Health. Effective April 1, 2003, a personal interview may not be required as part of the redetermination of eligibility. Instead, the recipient must be provided with a renewal form developed by the Department of Health, which requests information which is necessary to determine continued eligibility for Medical Assistance or Family Health Plus and which may have changed.

DISCUSSION

The Appellant's household has been in receipt of Medical Assistance. The Agency notified the Appellant to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form by December 10, 2017, to establish the Appellant's continuing eligibility for Medical Assistance. By Notice of Intent dated December 21, 2017, the Agency informed the Appellant of its intention to discontinue the Appellant's household's Medical Assistance effective January 3, 2018, because the Appellant failed to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form by December 10, 2017.

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The Agency submitted into evidence affidavits from [REDACTED], sworn and subscribed to on August 24, 2017 and Monica Johnson, sworn and subscribed to on May 4, 2017, meant to demonstrate the existence of a system of preparation and of mailing of mail-in recertification statements.

The Appellant returned the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form. The Agency acknowledged receipt of the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form. The Appellant testified that he did not receive the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form. He testified that the address on the form was incorrect. He testified that the address was for a shelter and he left the shelter 5 years ago. He testified that he called the Agency about his Medical Assistance between December 6, 2017 and December 10, 2017. During the call, he testified that he provided the Agency with his current address. The Appellant testified that his Advocacy Agency, Centers Plan For Healthy Living, contacted him and advised him that he had to recertify. He testified that he told them that he had not received the Recertification packet. They told him that they would mail it to him. He testified that he mailed to documents to them on in the beginning of December 2017. He presented a fax transmission verification report. He presented copies of the documents and Medicaid Recertification that was included in the fax.

The Appellant's testimony is credible based on the specificity of his testimony. The Appellant testified that he contacted the Agency between December 6, 2017 and December 10, 2017 and provided the correct address. The Agency's Address History shows that the Appellant's address was changed on December 7, 2017. Although, the Agency presented the Medicaid Recertification Tracking System Case Information which shows that the Appellant's Medicaid Renewal Form arrived at the Agency on September 29, 2017, it failed to present documentation to establish the procedure used by the Agency when it receives a Medicaid Renewal Form. After due consideration of the evidence submitted at the hearing, the Agency's determination is not sustained.

DECISION AND ORDER

The Agency's determination to discontinue the Appellant's household's Medical Assistance on the ground that the Appellant failed to return the Medical Assistance/Family Health Plus Recertification/Renewal Notification Form was not correct and is reversed.

1. The Agency is directed to continue the Appellant's household's Medical Assistance unchanged.
2. The Agency is directed to restore the Appellant's household's Medical Assistance retroactive to the date of its discontinuance.

It is noted that the Appellant must cooperate in the recertification process in order to continue to receive assistance and/or benefits.

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Should the Agency need additional information from the Appellant in order to comply with the above directives, it is directed to notify the Appellant promptly in writing as to what documentation is needed. If such information is requested, the Appellant must provide it to the Agency promptly to facilitate such compliance.

As required by 18 NYCRR 358-6.4, the Agency must comply immediately with the directives set forth above.

DATED: Albany, New York
03/05/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "Joaquin Keelo". The signature is fluid and cursive, with the first name "Joaquin" and last name "Keelo" clearly distinguishable.

Commissioner's Designee