

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: December 26, 2018

AGENCY: MAP
FH #: 7883339J

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 24, 2019, 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 December 20, 2018 determination to discontinue the Appellant's Medical Assistance benefits for failure to return a Medical Assistance recertification statement to the Agency 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, age 74 years has been in receipt of Medical Assistance benefits through Centers Plan for Healthy Living.

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2. The Appellant was required to recertify eligibility for Medical Assistance by returning a completed recertification form dated October 6, 2018 to the Agency by December 10, 2018.

3. In a letter from Centers Plan for Healthy Living dated October 12, 2018, the Appellant was instructed to complete and mail back the October 6, 2018 Medical Assistance recertification statement and supporting documents in an envelope provided by Centers Plan for Healthy Living.

4. The Appellant did not mail the completed October 6, 2018 Medical Assistance recertification statement to the Agency's address listed on the recertification statement. However, the Appellant did not advise the Agency of this fact before it made its determination.

5. By notice dated December 20, 2018, the Agency determined to discontinue the Appellant's Medical Assistance benefits on the grounds that the Appellant failed to return a Medical Assistance recertification statement to the Agency.

6. On December 26, 2018, the Appellant requested this fair hearing.

APPLICABLE LAW

Section 360-2.2(e) of Title 18 NYCRR and Section 369-ee of the Social Services Law provide that the Agency must redetermine a Medical Assistance or Family Health Plus recipient's eligibility at least once every twelve months and whenever there is a change in the recipient's circumstances that may affect eligibility.

A personal interview is not required as part of the redetermination of eligibility for Medical Assistance. Social Services Law 366-a(5). In addition, no personal interview is required to recertify eligibility for Family Health Plus. Social Services Law 369-ee.

Section 351.22(c) of the Regulations provides that, when a recipient fails to respond to an eligibility mailout questionnaire within the time period described in the questionnaire, the Agency must send another eligibility mailout questionnaire with a 10-day notice of proposed discontinuance. If the recipient does not respond to the mailout questionnaire within the 10-day period, the case must be closed at the end of the 10-day period. If the recipient does respond to the eligibility mailout questionnaire during the 10-day notice period, the 10-day notice of proposed discontinuance must be nullified.

DISCUSSION

The Appellant, age 74 years has been in receipt of Medical Assistance benefits through Centers Plan for Healthy Living.

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It is undisputed that the Appellant was required to recertify eligibility for Medical Assistance by returning a completed recertification form dated October 6, 2018 to the Agency by December 10, 2018.

By notice dated December 20, 2018, the Agency determined to discontinue the Appellant's Medical Assistance benefits on the grounds that the Appellant failed to return a Medical Assistance recertification statement to the Agency.

At the hearing the Appellant acknowledged receipt of the Medical Assistance recertification statement on October 22, 2018. He testified that prior to its receipt he had received a letter from Centers Plan for Healthy Living dated October 12, 2018, in which he was instructed to complete and mail back the Medical Assistance recertification statement once received along with supporting documents in an envelope provided by Centers Plan for Healthy Living. He further testified that on or about October 25, 2018 he complied and mailed back all the documents in the envelope provided by Centers Plan for Healthy Living. The Appellant presented the letter from Centers Plan for Healthy Living dated October 12, 2018 as supporting evidence. Said testimony was detailed, supported by documentary evidence and deemed credible. Good cause has been established under the circumstances presented.

It is undisputed that the Appellant did not mail the completed October 6, 2018 Medical Assistance recertification statement to the Agency's address listed on the recertification statement. However, the Agency was not advised of the reason before it made its determination. Accordingly, the Agency's determination was correct when made.

DECISION AND ORDER

The Agency's December 20, 2018 determination to discontinue the Appellant's Medical Assistance benefits for failure to return a Medical Assistance recertification statement to the Agency was correct when made. However, the Agency is directed:

1. to cancel the December 20, 2018 Notice of Intent and to continue the Appellant's Medical Assistance benefits unchanged.
2. to restore any lost Medical Assistance benefits retroactive to the date of the discontinuance of Appellant's benefits.

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

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DATED: Albany, New York
01/29/2019

NEW YORK STATE
DEPARTMENT OF HEALTH

By

C. C. Oluwesa.

Commissioner's Designee