

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: January 30, 2018

AGENCY: MAP
FH #: 7694945M

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 May 25, 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

Gale Britton, Fair Hearing Representative

ISSUE

Was the Agency's determination to discontinue the Appellant's Medical Assistance benefits because of the Appellant's failure to complete and return a Medicaid Managed Long Term Care Renewal form 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 90, has been in receipt of Medical Assistance benefits through a Managed Long Term Care ("MLTC") Plan ("the Plan") operated by Centers Plan for Healthy Living.

2. By Notice of Medicaid Managed Long Term Care (“MLTC”) Renewal dated November 4, 2017, the Agency requested that the Appellant complete and return the Agency’s Medicaid MLTC Renewal form to the Agency, in order for the Agency to determine the Appellant’s continued eligibility for Medical Assistance, “before” January 10, 2018.

3. The Appellant completed and returned the Agency’s MLTC Renewal form with the Assistance of the Plan’s health care navigators that was signed received by an agent of the Agency at its branch offices on December 28, 2017.

4. By Notice of Discontinuance dated January 20, 2018 and effective February 2, 2018, the Agency informed the Appellant of its determination to discontinue the Appellant’s Medicaid “because you or your representative did not return the recertification form...”.

5. On January 30, 2018, the Appellant’s Representatives requested this fair hearing to contest the Agency’s determination.

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.

Pursuant to 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 and which may have changed.

DISCUSSION

The record establishes the following relevant facts. By Notice of Medicaid Managed Long Term Care (“MLTC”) Renewal dated November 4, 2017, the Agency requested that the Appellant complete and return the Agency’s Medicaid MLTC Renewal form to the Agency, in order for the Agency to determine the Appellant’s continued eligibility for Medical Assistance, “before” January 10, 2018. By Notice of Discontinuance dated January 20, 2018 and effective February 2, 2018, the Agency informed the Appellant of its determination to discontinue the Appellant’s Medicaid “because you or your representative did not return the recertification form...”.

At the hearing, the Appellant's Representatives emphatically attested in detail to the Appellant's having completed and returned the Agency's MLTC Renewal form with the Assistance of the Plan's health care navigators that was signed received by an agent of the Agency at its branch offices on December 28, 2017. The Appellant's Representative's testimonies are credited because of their clarity, consistency, conviction and partial corroboration. It is noted that the Appellant has been historically compliant with the Agency's recertification processes.

Accordingly, the Agency's determination cannot be sustained because the Appellant, with assistance, was compliant with the Agency's recertification processes.

DECISION AND ORDER

The Agency's determination to discontinue the Appellant's Medical Assistance benefits because of the Appellant's failure to complete and return a Medicaid Managed Long Term Care Renewal form to the Agency is not correct.

1. The Agency is directed to cancel its Notice of Discontinuance dated January 20, 2018 and to take no action on this Notice.
2. The Agency is directed to restore the Appellant's Medical Assistance benefits, retroactive to the date of its discontinuance.
3. The Agency is directed to continue the Appellant's Medical Assistance benefits, unchanged.
4. To the extent that the Appellant participates in the Medicare Premium Buy In Program (aka Medicare Savings Program ["MSP"]), the Agency is directed to take appropriate action towards arranging for the restoration to Appellant of Medicare Premiums, Deductibles and Coinsurance paid by Appellant.

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

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.

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

DATED: Albany, New York
05/30/2018

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of loops and a horizontal line at the end.

Commissioner's Designee