

STATE OF NEW YORK
DEPARTMENT OF HEALTH

REQUEST: July 25, 2019

AGENCY: MAP

FH #: 8000407P

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 August 19, 2019, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For the Managed Long-Term Care Plan (Centers Plan for Healthy Living)


Deborah Ferguson, Centers Plan for Healthy Living

ISSUE

Was the Managed Long-Term Care Plan's determination to deny the Appellant's request for an increase in personal care services, correct?

FACT FINDING

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 85, has been in receipt of a Personal Care Services authorization from a Managed Long-Term Care Plan, .

2. The Appellant's Representative states that she requested an increase in personal care services hours from to 7 hours/7days weekly, to 24 hours/7 days weekly.
3. The Managed Long-Term Care Plan indicates that it has not yet taken any adverse action with an Initial Adverse Determination, or a Final Adverse Determination.
4. On July 25, 2019, the Appellant requested this fair hearing.

APPLICABLE LAW

18 NYCRR Section 358-3.1 sets forth the basis for a right to a fair hearing.

- (a) 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 department provide a fair hearing. The right to request a fair hearing cannot be limited or interfered with in any way.

DISCUSSION

The evidence establishes that the Appellant, age 85, has been in receipt of a Personal Care Services authorization from a Managed Long-Term Care Plan, [REDACTED].

At the hearing, the Appellant's Representative testified that she requested an increase in personal care services hours from to 7 hours/7days weekly, to 24 hours/7 days weekly. The Appellant's Representative stated that someone told her that her request for an increase in hours is being denied. The Appellant's Representative testified that she was informed by the MLTC Plan that her request for an increase in personal care services hours was being denied. However, the Representative admitted that she had not received any denial in writing.

The Managed Long-Term Care Plan Representative indicates that it has not yet taken any adverse action with regard to the Appellant, with an Initial Adverse Determination, or a Final Adverse Determination.

The basis for a Fair Hearing is for a review of actions taken by the Agency. Therefore, as no Initial Adverse Determination, or a Final Adverse Determination has been made by the MLTC Plan to regarding a request for an increase in the Appellant's personal care services hours, there is no issue for the Commissioner to decide.

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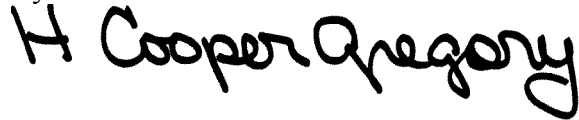
DECISION AND ORDER

As no determination has been made by the Agency about the Appellant's request for exemption from employment based upon medical condition, there is no issue for the Commissioner to decide.

DATED: Albany, New York
10/08/2019

NEW YORK STATE
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink that reads "H. Cooper Gregory". The signature is written in a cursive, flowing style.

Commissioner's Designee