


STATE OF NEW YORK  
DEPARTMENT OF HEALTH

REQUEST: July 30, 2018

AGENCY: MAP

FH #: 7801688L

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In the Matter of the Appeal of	:	<b>DECISION</b>
	:	<b>ON</b>
	:	<b>STIPULATION</b>
	:	<b>AFTER</b>
	:	<b>FAIR</b>
from a determination by the New York City	:	<b>HEARING</b>
Department of Social Services	:	

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**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 27, 2018, 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)

Julia Rolffot, Fair Hearing Representative

**ISSUE**

Was the Managed Long-Term Care Plan's determination of June 22, 2018 not to approve an increase of Appellant's Personal Care Services from 12 hours per day for seven days per week to 24 hours per day for seven days per week split shift.

**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 55, resides alone; is in receipt of Medicaid; and is enrolled in Centers Plan for Healthy Living, Managed Long-Term Care Plan ("the MLTC Plan").
2. The Appellant has been receiving Personal Care Services in the amount of 84 hours per week (seven days per week for 12 hours per day).

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3. Appellant had requested an increase in Personal Care Services to 24 hours per day, seven days per week split-shift care.

4. By Notice dated June 22, 2018, the MLTC Plan denied Appellant's request for 24 hours per day, seven days per week split-shift care.

5. On July 30, 2018, the Appellant requested this fair hearing.

### **DISCUSSION**

The Appellant had been in receipt of an authorization for Personal Care Services, provided by The MLTC Plan, for 12 hours per day (7:00 a.m. to 7:00 p.m.) for seven days per week.

The Appellant requested an increase in Personal Care Services to 24 hours per day, seven days per week split-shift care. On May 8, 2018, the MLTC Plan approved "1 Day Personal Care Aide Level 2 – Live-In per diem, 7 day(s) per week., which the Appellant rejected as insufficient."

By Final Adverse Determination, dated June 22, 2018, the MLTC Plan denied Appellant's request for 24 hours per day, seven days per week split-shift care.

At the hearing, the MLTC Plan agreed to authorize and provide Personal Care Services to the Appellant in the amount of 24 hours daily, 7 days per week by one personal care worker to begin as soon as possible.

At the hearing, the Appellant's representative accepted the terms of the MLTC Plan's stipulation as a complete resolution of the Appellant's request for a fair hearing.

### **DECISION AND ORDER**

In accordance with the MLTC Plan's agreements made at the hearing, the MLTC Plan is directed to take the following actions if it has not already done so:

1. To authorize and provide Personal Care Services to the Appellant in the amount of 24 hours daily, 7 days per week by one personal care worker.

Should the MLTC Plan 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 MLTC Plan promptly to facilitate such compliance.

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

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DATED: Albany, New York  
10/02/2018

NEW YORK STATE  
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "T. A. Selekm", followed by a period.

Commissioner's Designee