

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

REQUEST: March 19, 2018

AGENCY: MAP

FH #: 7722871J

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In the Matter of the Appeal of	:
	: <b>DECISION</b>
	<b>AFTER</b>
	: <b>FAIR</b>
	<b>HEARING</b>
from a determination by the New York City	:
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 May 10, 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 (CHL)

Plan appearance waived by the Office of Administrative Hearings

**ISSUE**

Was the determination by the Appellant's Managed Long Term Care Plan, Centers Plan for Healthy Living, to discontinue the Appellant's authorization for a home delivered meal plan service, 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 51, has been in receipt of Medicaid benefits provided through a Managed Long Term Care health care plan operated by Centers Plan for Healthy Living ("CHL").

2. The Appellant has been previously authorized by CHL to receive home delivered meals (meals on wheels) through "God We Deliver," 3 units per day, 7 days per week, 21 units per week.

3. By notice dated March 6, 2018, the Plan informed the Appellant of its determination to discontinue the Appellant's authorization for home delivered meals, effective March 18, 2018, due to confirmation that the Appellant is in receipt of SNAP benefits.

4. On March 19, 2018, the Appellant requested this fair hearing to contest the Plan's determination.

### **APPLICABLE LAW**

Regulations at 18 NYCRR 358-3.7(a) provide that an appellant has the right to examine the contents of the case record at the fair hearing. At the fair hearing, the agency is required to provide complete copies of its documentary evidence to the hearing officer. In addition, such documents must be provided to the appellant and appellant's authorized representative where such documents were not provided otherwise to the appellant or appellant's authorized representative in accordance with 18 NYCRR 358-3.7. 18 NYCRR 358-4.3(a). In addition, a representative of the agency must appear at the hearing along with the case record and a written summary of the case and be prepared to present evidence in support of its determination. 18 NYCRR 358-4.3(b). Except as otherwise established in law or regulation, in fair hearings concerning the discontinuance, reduction or suspension of Public Assistance, Medical Assistance, SNAP benefits or Services, the Agency must establish that its actions were correct. 18 NYCRR 358-5.9(a).

In addition, a representative of the agency must appear at the hearing along with the case record and a written summary of the case and be prepared to present evidence in support of its determination. 18 NYCRR 358-4.3(b). Except as otherwise established in law or regulation, in fair hearings concerning the discontinuance, reduction or suspension of Medical Assistance benefits or services, the Agency must establish that its actions were correct. 18 NYCRR 358-5.9(a).

Regulations at 18 NYCRR 358-4.3(c) provides, in part, that no later than five calendar days before the hearing date, the social services agency may make application to the OAH [Office of Administrative Hearings] to appear at a hearing on papers only. The OAH may approve such application in its discretion where the rights of the appellant can be protected and the personal appearance of the agency is neither feasible nor necessary.

### **DISCUSSION**

The record establishes that the Appellant has been in receipt of Medicaid benefits provided through a Managed Long Term Care health care plan operated by Centers Plan for Healthy Living ("CHL"). The Appellant has been previously authorized by CHL to receive home delivered meals (meals on wheels) through "God We Deliver," 3 units per day, 7 days per

week, 21 units per week. By notice dated March 6, 2018, the Plan informed the Appellant of its determination to discontinue the Appellant's authorization for home delivered meals, effective March 18, 2018, due to confirmation that the Appellant is in receipt of SNAP benefits.

Although duly notified of the time and place of the hearing, the Plan, although submitted an evidence packet in lieu of an appearance, simply failed to submit sufficient evidence to support its determination to discontinue the Appellant's home delivered meals due to the Appellant's receipt of SNAP benefits. Most importantly, the Plan failed to establish that getting SNAP benefits, disqualifies the Appellant from continuing to get meal on wheels.

Therefore, the Plan has failed to meet its obligations pursuant to 18 NYCRR 358-5.9(a). Accordingly, the Plan's determination cannot be sustained.

### **DECISION AND ORDER**

The determination by the Appellant's Managed Long Term Care Plan, CHL, to discontinue the Appellant's authorization for home delivered meals is not correct.

1. The Plan is directed to cancel its Notice of Intent dated March 6, 2018, discontinuing the Appellant's home delivered meals service and to take no action upon that Notice.
2. The Plan is directed to restore the Appellant's authorization for home delivered meals (meals on wheels) through "God We Deliver," 3 units per day, 7 days per week, 21 units per week.
3. The Plan is directed to continue the Appellant's authorization for home delivered meals (meals on wheels) through "God We Deliver," 3 units per day, 7 days per week, 21 units per week unchanged.
4. The Plan is directed to notify the Appellant in writing upon its compliance with this Fair Hearing Decision.

Should Plan in the future determine to implement its previous action, it is directed to procure and review the Appellant's case record, to issue a new, timely, and adequate Notice of Intent, and to produce the complete case record at any subsequent fair hearing.

Should the Plan need additional information from the Appellant 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 required, the Appellant must provide it to the Plan promptly to facilitate such compliance.

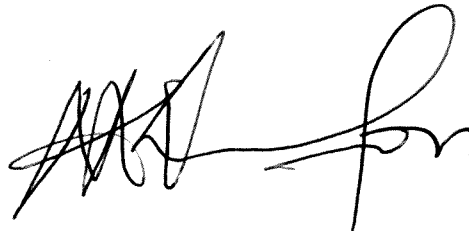
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As required by 18 NYCRR 358-6.4, the Plan must comply immediately with the directives set forth above.

DATED: Albany, New York  
06/27/2018

NEW YORK STATE  
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Commissioner's Designee