

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

REQUEST: June 19, 2017

AGENCY: MAP

FH #: 7555002L

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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 January 24, 2018, in New York City, before an Administrative Law Judge. The following persons appeared at the hearing:

For the Appellant



For Centers Plan for Healthy Living

Alisha Jacobs, Representative;

**ISSUE**

Was Centers Plan's June 14, 2017, determination to deny the Appellant's request for participation in the Consumer Directed Personal Assistance Program (CDPAP) 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, who is 70 years old, had been in receipt of Medical Assistance through Centers Plan for Healthy Living, and was authorized to receive Personal Care Services in the amount of 112 hours per week, at a rate of 16 hours per day, 7 days per week.

2. The Appellant made a request to participate in the Consumer Directed Personal Assistance Program (CDPAP).

3. By Initial Adverse Determination dated June 14, 2017, Centers Plan for Healthy Living notified the Appellant of its determination to deny the Appellant's request for participation in the CDPAP program.

4. On June 19, 2017, this hearing was requested.

5. Decision after Fair Hearing, 7555015N, issued February 12, 2018, affirmed a May 30, 2017 determination by New York Medicaid Choice (Maximus) to disenroll the Appellant from Centers Plan for Healthy Living, effective July 1, 2017.

6. As a result of the matter of Varshavsky v. Perales, this fair hearing was rescheduled to be heard in the Appellant's home.

**APPLICABLE LAW**

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. An applicant or recipient does not have the right to a fair hearing in all situations. 18 NYCRR 358-3.1(a), (f).

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**DISCUSSION**

The record establishes that the Appellant has been in receipt of his Personal Care Services through aid continuing pending the outcome of this hearing.

Decision after Fair Hearing, 7555015N, issued February 12, 2018, affirmed a May 30, 2017 determination by New York Medicaid Choice (Maximus) to disenroll the Appellant from Centers Plan for Healthy Living, effective July 1, 2017.

The record establishes that the Appellant has been disenrolled from Centers Plan for Healthy Living effective July 1, 2017, so that there is no issue to be decided, and no relief to grant the Appellant.

**DECISION**

There is no issue to be decided.

DATED: Albany, New York  
02/15/2018

NEW YORK STATE  
DEPARTMENT OF HEALTH

By

A handwritten signature in black ink, appearing to read "Kenneth Luciano". The signature is written in a cursive, somewhat stylized font.

Commissioner's Designee