

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

[REDACTED], Petitioner,	:	
	:	
v.	:	Docket No.:
	:	OSAH-DFCS-RSM-[REDACTED]-Walker
	:	
DEPARTMENT OF HUMAN SERVICES,	:	Agency Reference No.:
DIVISION OF FAMILY AND CHILDREN :	:	[REDACTED]
SERVICES,	:	
Respondent.	:	

INITIAL DECISION

I. Introduction

The Petitioner requested a hearing in response to the Respondent's action terminating Medicaid benefits for her family, including her two children. A hearing was held on January 16, 2014. As set forth below, the Respondent's action is hereby **REVERSED**.

II. Findings of Fact

1.

Petitioner and her family receive Medicaid benefits. On October 10, 2013, Respondent sent Petitioner a notice indicating that her renewal application was due by November 30, 2013. On November 12, 2013, Respondent mailed a second notice to Petitioner again stating that her renewal application was due by November 30, 2013. *Testimony of Petitioner; Testimony of Caseworker S. Anderson.*

2.

Respondent operates a website that provides a common point of access to social services (hereinafter "COMPASS"). COMPASS allows individuals to apply for or renew public assistance benefits in Georgia online. *Testimony of Petitioner; Testimony of Caseworker S. Anderson.*

3.

Petitioner previously has used COMPASS to apply for and renew her benefits. On November 27, 2013, the day before Thanksgiving, Petitioner attempted to renew her Medicaid benefits on the COMPASS Website. When she arrived at the home screen, there was a notification on the screen indicating that the COMPASS website would be down for maintenance during the Thanksgiving Holiday and would not be accessible until the next business day, which was December 2, 2013. Neither of the notices sent to Petitioner indicated that the COMPASS website would not be accessible at any time prior to the date of renewal. *Testimony of Petitioner.*

4.

Petitioner was unable to complete her renewal application before November 30, 2013. A notice dated November 27, 2013, issued prior to the final renewal date of November 30, 2013, indicated that Medicaid benefits would be terminated on November 30, 2013, because Petitioner did not cooperate with the review and her period of eligibility had expired. Although Petitioner submitted an appeal dated December 4, 2013, stating that she wanted to continue receiving benefits, Petitioner's Medicaid benefits were not restored. Moreover, Petitioner reapplied for benefits on December 10, 2013, but as of the date of the hearing her application had not yet been processed by Respondent.¹ *Testimony of Petitioner.*

III. Conclusions of Law

1.

Because this matter involves a termination of Medicaid benefits, Respondent bears the burden of proof. OSAH Rule 616-1-2-.07(1)(e). The standard of proof is a preponderance of the evidence. OSAH Rule 616-1-2-.21(4).

2.

Medicaid is a joint federal-state program that provides comprehensive medical care for certain classes of eligible recipients whose income and resources are determined to be insufficient to meet the costs of necessary medical care and services. 42 U.S.C. §§ 1396-1396w-5. Each state is required to designate a single state agency to administer its Medicaid plan. 42 C.F.R. § 431.10(b). In Georgia, that agency is the Department. O.C.G.A. § 49-2-11(f).

3.

Medicaid service cuts must be consistent with the Due Process Clause of the United States Constitution, *see* U.S. CONST., amend. XIV, § 1, *and Goldberg v. Kelly*, 397 U.S. 254, 262-63 (1970), and also the specific requirements of the Medicaid Act. 42 U.S.C. § 1396a(c). In this case, due process requires that a notice sent by the agency reasonably convey the required information. *See, e.g., Baker v. Alaska Dep't. of Health and Soc. Servs.*, 191 P.3d 1005, 1010-11 (Alaska 2008) (“adequate notice must ‘detail[] the reasons’ for a proposed termination of benefits” and “[w]here the recipient has a ‘brutal need’ . . . require[] agencies to go to greater lengths [including] incurring higher costs and accepting inconveniences – to reduce the risk of [erroneous deprivation]”) (citing *Goldberg*, 397 U.S. at 261, 267-68); *David v. Heckler*, 591 F.Supp 1033, 1042 (1984) (noting “review notices could not be understood by the great majority of beneficiaries who received them”) (citations omitted).

4.

Petitioner chose to complete her renewal via the COMPASS system. However, the notice sent to Petitioner regarding the renewal was inadequate to satisfy due process. The notice informed Petitioner that her renewal was not due until November 30, 2013. There was no indication in the notice that the COMPASS website would not be available between November 27, 2013, and November 30, 2013. To the contrary, it would be reasonable for an individual to assume that

¹ The Respondent's policy manual contains a Standard of Promptness which provides that Medicaid applications should be determined within 45 days. *ESSM* § 2060-5. This requirement is also found in federal regulations. *See* 42 C.F.R. § 435.911.

online renewal, as opposed to in-person renewal, would be available outside of typical business hours. Accordingly, if the agency intended to take COMPASS offline for a significant period, it should have informed its customers of the dates and times that this service would not be available. *Cf. Doe ex rel. Doe v. Chiles*, 136 F.3d 709, 714 (1998) (“agency must establish time standards for determining eligibility and inform the applicant of what they are.”) (citing 42 C.F.R. § 435.911(a) (1996)).

5.

Further in the case of benefit terminations or reductions, federal Medicaid law requires that the state mail an advance notice of the action at least 10 days before it is to take effect. 42 C.F.R. § 431.211. In this case, such notice was sent on November 27, 2013, only three days prior to the expiration of benefits. Moreover, services must be continued until a final hearing decision if a Medicaid beneficiary requests a fair hearing before the date services are to be stopped or reduced, 42 C.F.R. § 431.231(c)(2), or until a final hearing decision if the requisite advance notice is not sent to a Medicaid beneficiary. 42 C.F.R. § 431.231(c)(1) (cross referencing 42 C.F.R. § 431.211). As Respondent failed to send the requisite notice, Petitioner’s benefits should have been continued.

IV. Decision

In accordance with the above Findings of Fact and Conclusions of Law, the Respondent’s action terminating Petitioner’s Medicaid benefits is **REVERSED**. Petitioner is directed to resubmit her application within ten days of this decision and Respondent must consider Petitioner’s review application as if it was received prior to the November 30, 2013, deadline date. Moreover, Petitioner’s benefits should be restored immediately, as Respondent failed to send notice of the termination ten days prior to its taking effect.

SO ORDERED, this ____ day of January, 2014.

RONIT WALKER
Administrative Law Judge