

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

[REDACTED]

Appellant

_____ /

Docket No. 2009-32207 TRN

[REDACTED]

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, following the Appellant's request for a hearing.

After due notice, hearings were held on [REDACTED] and [REDACTED]. [REDACTED] (Appellant) appeared and testified on her own behalf.

[REDACTED], Appeals Review Officer, represented the Department of Community Health (Department). Appearing at the [REDACTED], hearing was [REDACTED], Assistance Payment Worker Supervisor and [REDACTED], Eligibility Specialist, [REDACTED] County Department of Human Services (DHS).

The [REDACTED], hearing was continued until [REDACTED]. [REDACTED], Eligibility Specialist, appeared as a witness for [REDACTED].

ISSUE

Did DHS properly deny the Appellant's transportation reimbursement request for dates of service, [REDACTED]

[REDACTED]

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. The Appellant is a Medicaid beneficiary.
2. On [REDACTED], the Appellant submitted to [REDACTED] 6 medical transportation statements for the dates of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]. At this time, she was residing in [REDACTED]. In approximately [REDACTED], the Appellant re-located to [REDACTED].
3. On [REDACTED], a DHS-176 Benefit Notice was issued by the [REDACTED] County DHS to the Appellant informing her that the forms were incomplete and requested that she correct and re-submit the forms within 90 days, or by [REDACTED].
4. As of [REDACTED], the corrected medical transportation forms had not been received by [REDACTED], the office to which the Appellant's case was transferred after her re-location to that county. Thus, payment for the above-referenced dates was never authorized.
5. On [REDACTED], the Appellant filed her Request for Hearing with the State Office of Administrative Hearings and Rules. Thereafter, a hearing was scheduled for [REDACTED]. During that hearing, the parties jointly agreed that the Appellant should be provided additional time to submit corrected transportation reimbursement forms to [REDACTED]. The [REDACTED] hearing was continued to [REDACTED].
6. During the [REDACTED] hearing, the [REDACTED] witness verified receiving the corrected transportation reimbursement forms, and further verified that the Appellant is eligible for reimbursement for the above-referenced dates of service.

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Medical Transportation coverage under the State Medicaid Plan is addressed in the DHS Program Administrative Manual 825. That policy provides the Medicaid coverage requirements for medical transportation. The Department of Human Services is responsible for decisions regarding Medicaid funded medical transportation.

The DHS Program Administrative Manual 825 provides in pertinent part:

COVERED MEDICAL TRANSPORTATION Medical transportation is available to obtain medical evidence or receive any MA-covered service from any MA-enrolled provider, including:

- Chronic and ongoing treatment
- Prescriptions
- Medical supplies
- One time, occasional and ongoing visits for medical care

Exception: Payment may be made for transportation to V.A. hospitals and hospitals which do not charge for care (e.g., St. Jude Children's Hospital, Shriners Hospital).

MEDICAL TRANSPORTATION NOT COVERED Do not authorize payment for the following:

- Transportation for non-covered services (e.g., AA meetings, medically unsupervised weight reduction, trips to pharmacies for reasons other than obtaining MA-covered items).
- Reimbursement for transportation for episodic medical services and pharmacy visits that has already been provided.
- Transportation costs for long-term care (LTC) residents. LTC facilities are expected to provide transportation for services outside their facilities.
- *Transportation costs to meet a client's personal choice of provider for routine medical care outside the community when comparable care is available locally. Encourage clients to obtain medical care in their own community unless referred elsewhere by their local physician. (Emphasis supplied by ALJ)*
- DCH authorized transportation for clients enrolled in managed care is limited. See "**CLIENTS IN MANAGED CARE.**"

Exception: Dental, substance abuse or community mental health services are not provided by managed care; therefore, a DCH authorization for medical transportation for these services may still be necessary.

**Pam 825; Medical Transportation
Program Administrative Manual;
State of Michigan
Department of Human Services
PPB 2009-001
1-1-2009
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A Medicaid beneficiary bears the burden of proving he or she was denied a medically necessary and appropriate service. See, e.g., *J.K By and Through R.K. v Dillenberg*, 836 F Supp 694, 700 (Ariz, 1993). Whether the Appellant satisfied that burden here must be determined in accord with the preponderance of the evidence standard. See, e.g., *Aquilina v General Motors Corp*, 403 Mich 206, 210; 267 NW2d 923 (1978).

Regarding an appeal filed with the State Office of Administrative Hearing and Rules for the Department of Community Health, the Administrative Law Judge is given ultimate discretion to determine the weight and credibility of the evidence presented. *Wiley v Henry Ford Cottage Hosp*, 257 Mich App 488, 491; 668 NW2d 402 (2003); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996) (the fact finder is provided with the unique opportunity to observe or listen to witnesses; and, it is the fact finder's responsibility to determine the credibility and weight of the testimony and other evidence provided).

The [REDACTED] witness confirmed that, although statements were not timely submitted, once received, they appear valid and accordingly will be approved for payment. The Department supported the DHS witness' position and did not contest the Appellant's right to be reimbursed for the dates in question.

The Appellant asserts that there are dates of service for which she has not yet been reimbursed and that are not part of this hearing record. She further asserts that reimbursement statements for those other dates were submitted to [REDACTED] and never paid.

Under questioning by the ALJ, the [REDACTED] witness indicated her office will make a decision on the dates not referenced under Finding of Fact #2, as there in fact has been no written denial issued as of the date of the [REDACTED] hearing.

Because it appears the denial in this case relates only to the dates referenced under Finding of Fact #2, and because the testimony of record indicates there has been no official (written) denial of reimbursement for the other dates, this decision will address whether the Department has erred in denying reimbursement for only the dates referenced in Finding of Fact #2.

DECISION AND ORDER

Based on a preponderance of the evidence presented at both the [REDACTED] and [REDACTED] hearings, I conclude that DHS inappropriately denied the Appellant's transportation reimbursement requests for dates [REDACTED].

IT IS THEREFORE ORDERED THAT:

The Department's decision is REVERSED. The Appellant shall be reimbursed for medical transportation expenses related to dates [REDACTED].

Stephen B. Goldstein
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 12/3/2009

***** NOTICE *****

The law provides that within 30 days of receipt of the above Decision and Order the Appellant may appeal it to the circuit court for the county in which he/she lives. The State Office of Administrative Hearings and Rules for the Department of Community Health, on its own motion, or on request of a party within 30 days of the receipt of this Decision and Order, may order a rehearing. The Administrative Tribunal will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request.