

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

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

████████████████████

Appellant

Docket No. 2010-20663 TRN

████████████████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ appeared on his own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, ██████████, and ██████████, Eligibility Specialist, appeared as witnesses on behalf of the Department of Human Services (DHS).

ISSUE

Did the Department properly deny the Appellant's request for medical transportation?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a ██████████ Medicaid beneficiary.
2. Effective ██████████, podiatrist services were eliminated as a covered service benefit for Medicaid beneficiaries ██████████ or older pursuant to Executive Order 2009-22. (Exhibit 1, page 5)
3. On ██████████, the Department reviewed the Appellant's telephone request for medical transportation for a podiatrist appointment. (Testimony)

4. On ██████████ the Department issued a Medical Transportation Notice to the Appellant denying the request because the transportation was requested for services not covered by Medicaid. (Exhibit 1, page 4)
5. The Appellant's request for a formal administrative hearing was received by the State Office of Administrative Hearing and Rules for the Michigan Department of Community Health on ██████████. (Exhibit 1, page 3)

CONCLUSIONS OF LAW

The Medicaid program was established pursuant to Title XIX of the Social Security Act (SSA) and is implemented by 42 USC 1396 *et seq.*, and Title 42 of the Code of Federal Regulations (42 CFR 430 *et seq.*). The program is administered in accordance with state statute, the Social Welfare Act (MCL 400.1 *et seq.*), various portions of Michigan's Administrative Code (1979 AC, R 400.1101 *et seq.*), and the State Plan promulgated pursuant to Title XIX of the SSA.

The medical transportation coverage under the State Medicaid Plan is stated in Bridges Administrative Manual (BAM), 825 Medical Transportation, January 1, 2010:

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.
- Onetime, occasional and ongoing visits for medical care.

MEDICAL TRANSPORTATION NOT COVERED

Do not authorize payment for the following:

- Transportation for noncovered services (such as 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.
- DCH authorized transportation for clients enrolled in managed care is limited. See **CLIENTS IN MANAGED CARE**.

Bridges Administrative Manual (BAM), 825 Medical Transportation
Pages 2 of 17, January 1, 2010
(Exhibit 1, page 7)

In the present case, the Department denied the Appellant's ██████████ request for transportation to a podiatrist appointment. The ██████████ Coordinator testified that the Department had previously approved similar transportation requests. However, pursuant to Executive Order 2009-22, podiatrist services were no longer a covered service benefit for Medicaid beneficiaries age 21 and over effective July 1, 2009. (Exhibit 1, page 5) The Community Resource Coordinator explained that by policy, she can only approve transportation requests for Medicaid covered services. Therefore, the Appellant's ██████████ request for transportation to a podiatrist appointment was denied because this was no longer a Medicaid covered service benefit.

The Appellant disagrees with the denial and testified that the all of the services cut pursuant to Executive Order 2009-22, chiropractic services, podiatrist services, hearing aid dealers, eye glass and associated vision services, and dental services are services that he needed. The Appellant stated that he is a cancer patient, has a hearing aid in his left ear, and is a diabetic. The Appellant explained due to the diabetes, he must see a podiatrist to check for infections.

While this ALJ sympathizes with the Appellant's circumstances, Department policy specifies that medical transportation can only be approved for Medicaid covered services. Podiatry services were eliminated as a covered service benefit for Medicaid beneficiaries ages 21 and over effective July 1, 2009. Neither the Department nor this ALJ can ignore or override an Executive Order. Accordingly, the Department followed applicable policy in denying the Appellant's ██████████ request for medical transportation to a podiatrist appointment.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for medical transportation.


Docket No. 2010-20663 TRN
Decision and Order

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 5/10/2010

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules 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. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.