

██████████ counties for dates of service on and after ██████████. *Bridges Administrative Manual (BAM) 825 Medical Transportation, 1-1-2011, Page 1 of 17.* (Exhibit 1, page 2)

4. The Appellant lived in ██████████, a city in ██████████. (Exhibit 1, page 2)
5. The Appellant asserted that ██████████ has effectively failed to provide medical transportation when the transporters fail to show or arrive so late the Appellant can not be seen by the doctor, been unable to provide safe transportation to accommodate her respiratory impairments and has refused to provide medical transportation for the Appellant. (Exhibit 1, pages 2-4; Exhibits 2-4)
6. ██████████ has provided documentation that the Appellant has canceled trips when the provider could not guarantee a smoke free vehicle or smelled of cologne, they have been unable to obtain documentation of the Appellant's respiratory impairments from any of the doctors they have transported her to, have not issued a denial letter because they never denied medical transportation to the Appellant, and trips were cancelled when no transportation options were available or a provider did not show. (Exhibit 6)
7. On ██████████, the Appellant filed a Request for Hearing. (Exhibit 1, pages 2-4)

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.

Department policy governing medical transportation coverage is found in the Bridges Administrative Manual (BAM), Section 825, Medical Transportation:

NON-EMERGENCY MEDICAL TRANSPORTATION

Medicaid Non-Emergency Medical Transportation (NEMT) brokerage Contract in ██████████, ██████████ and ██████████ Counties

The Michigan Department of Community Health has contracted with ██████████ to administer

non-emergency medical transportation in ██████████
██████████ counties for dates of service on and after
██████████.

Effective for dates of service on and after ██████████,
██████████ and ██████████ DHS offices will no
longer be reimbursed for Medicaid non-emergency medical
transportation.

All beneficiaries residing in ██████████, and ██████████
will be receiving a letter informing them of this change.

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 (such as St. Jude
Children's Hospital, Shriners Hospital).

*Bridges Administrative Manual (BAM),
Section 825 Medical Transportation,
January 1, 2011, Pages 1-2 of 17
(emphasis in original).*

The Medicaid Department Analyst testified ██████████ indicated that they have not
denied the Appellant medical transportation. (see Exhibit 1, page 1) However, during
the ██████████, hearing proceedings, the Appellant provided detailed testimony and
documentation that ██████████ has effectively denied and/or failed to provide medical
transportation when the transporters fail to show or arrive so late the Appellant can not
arrive in time to be seen by the doctor, been unable to provide safe transportation to
accommodate her respiratory impairments and has refused to provide medical
transportation to her. (Appellant Testimony, Exhibit 1, pages 2-4; Exhibits 2-4) In
response to the ██████████ Interim Order Leaving Record Open, ██████████

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provided a chart detailing transportation requests for the Appellant between [REDACTED], and [REDACTED]. (Exhibit 6)

The Appellant provided detailed testimony regarding her respiratory impairments, which prevent her from riding in vehicles that have had been smoked in. (Appellant Testimony) [REDACTED] documented that the Appellant has canceled trips if they could not guarantee a vehicle that has not been smoked in and a driver free of scent. Specifically, a trip scheduled for [REDACTED], was canceled because a provider could not guarantee a non-smoking vehicle, and a [REDACTED], trip was cancelled after the transportation provider arrived, due to the smell of cologne. However, the documentation from [REDACTED] indicates that they were unable to obtain verification of the Appellant's respiratory impairments and resulting medical transportation needs from the doctors they have transported the Appellant to. (Exhibit 6) While this ALJ understood the severity of the Appellant's respiratory impairments from her testimony and written letters, the contractor was unable to verify the impairments and necessity of an irritant free vehicle for transporting the Appellant. [REDACTED] can not be found to have denied or failed to provide medical transportation for trips the Appellant canceled due to the respiratory impairments [REDACTED] was unable to obtain verification of.

[REDACTED] asserted that they have never denied the Appellant transportation. However, the evidence supports the Appellant's assertion that [REDACTED] has effectively denied or failed to provide medical transportation for some trips. The [REDACTED] chart does not address each of the dates listed by the Appellant between [REDACTED], and [REDACTED], but at least two trip dates on their documentation indicate a failure to provide the Appellant medical transportation. (Exhibits 4 and 6) Specifically, the submitted chart indicates a [REDACTED], trip was cancelled because no transportation options were available. (Exhibit 6) There is no indication that the Appellant requested the cancellation of this trip. It is not known how far in advance this trip was requested, but presuming sufficient advance notice was given for the requested trip that was canceled by [REDACTED] this was effectively a denial of medical transportation. Further, a [REDACTED], trip was cancelled because "transportation provider no show." (Exhibit 6) [REDACTED] did not address the Appellant's [REDACTED] request for transportation that the Appellant indicated the transportation provider arrived two hours late for and the doctor indicated that Appellant would not be able to be seen. (Exhibit 4) A transportation provider not showing for a scheduled trip or showing so late that the Appellant would arrive at the doctor's office too late to be seen is also a failure to provide medical transportation.

As discussed during the [REDACTED], hearing proceedings, this ALJ does not have the requisite authority to grant the Appellant's request to have her medical transportation arranged through [REDACTED].

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that there is sufficient evidence to show that the Department's contractor effectively denied the Appellant with medical transportation on dates when no transportation options were available and effectively failed to provide transportation when the transportation provider failed to show or arrived so late to transport the Appellant that she could not be seen by the doctor.

IT IS THEREFORE ORDERED that:

The Department's decision is **PARTIALLY REVERSED**. No further action is ordered as the Appellant's [REDACTED] move to [REDACTED] places her outside of the counties included in the Department's contract with [REDACTED].

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 9/19/2011

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.