

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

Docket No. 2011-49347 TRN
Case No. [REDACTED]

[REDACTED]

Appellant

_____ /

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 convened [REDACTED]. The Appellant represented herself.

[REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Eligibility Specialist, appeared as a witness for the Department of Human Services (DHS). [REDACTED] appeared as a witness on behalf of the Department. [REDACTED], Eligibility Specialist also appeared on behalf of the Department.

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. (uncontested)
2. The Appellant is dependent upon Social Security Income (SSI). (Department Exhibit A)
3. The Appellant resides in [REDACTED].

4. The Appellant has requested medical transportation reimbursement from the Department of Human Services on ██████████, and again ██████████. (Department Exhibit A)
5. The Appellant returned a DHS 54A verifying Medical Needs on ██████████. She returned the MSA 4674A Medical Transportation Statement on ██████████, and MSA 4674 Medical Transportation Statement on ██████████ (Department Exhibit A)
6. The Department of Human Services sent a denial notice on ██████████ informing the Appellant her request for medical transportation reimbursement had been denied because “you have transportation available to you without charge by family members, community services, neighbors or friends.” (Department Exhibit A)
7. At hearing, the Department indicated she did not believe the Appellant ever informed her she was being charged for transportation by her daughter, who was taking her to her medical treatment. (uncontested testimony)
8. The Department witness stated the Appellant had left several messages requesting the medical transportation service. (uncontested testimony)
9. The Department witness had no recollection of ever asking the Appellant if she was being provided transportation for free. She did testify she assumed she was being provided the transportation for free. (uncontested testimony)
10. The Appellant testified she had to put gas in her family’s car every few days in order to be driven to physical therapy 3 times per week between ██████████, and ██████████ (hearing testimony)
11. The Appellant’s daughter is a student and is her mother’s chore provider. (uncontested testimony)
12. On ██████████, the Appellant requested a formal administrative hearing.

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 set forth in Bridges Administrative Manual (BAM). The pertinent portions are below:

MEDICAL TRANSPORTATION

You must furnish information in writing and orally, as appropriate, to all applicants and to all other individuals who request it acknowledging that medical transportation is **ensured** for transportation to and from medical services providers for MA-covered services. MDCH Publication 141, Medicaid Health Care Coverage, may be used to provide written information. Payment for medical transportation may be authorized only after it has been determined that it is not otherwise available, and then for the least expensive available means suitable to the client's needs.

Medical transportation is available to:

- FIP recipients.
- MA recipients.
- SSI recipients.

Note: DCH authorized transportation is limited for clients enrolled in managed care. See **CLIENTS IN MANAGED CARE**.

Medical transportation is not available to the following, unless it is to obtain medical evidence; see BAM 815:

- FIP applicants.
- SDA applicants/recipients.
- MA applicants.
- AMP applicants/recipients (BEM 640).
- FAP applicants/recipients (BEM 230B).
- Clients who have not met their deductible.
- Medicare Savings Program only (BEM 165) recipients.
- QDWI (BEM 169) recipients.
- Recipients limited to emergency MA coverage.

NON-EMERGENCY MEDICAL TRANSPORTATION
Medicaid Non-Emergency Medical Transportation
(NEMT) Brokerage Contract in Wayne, Oakland and
Macomb Counties

The Michigan Department of Community Health has contracted with LogistiCare Solutions, L.L.C. to administer non-emergency medical transportation in Wayne, Oakland and Macomb counties for dates of service on and after January 1, 2011.

Effective for dates of service on and after January 1, 2011, Wayne, Oakland and Macomb County DHS offices will no longer be reimbursed for Medicaid non-emergency medical transportation. All beneficiaries residing in Wayne, Oakland, and Macomb will be receiving a letter informing them of this change.

Beneficiaries who are currently receiving or need to request NEMT in the future should be referred to LogistiCare. LogistiCare may be reached at (866) 569-1902.

Reminder: In all other counties, each County DHS office is responsible for NEMT for the beneficiaries who reside in that county.

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.

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).

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**.
Exception: Dental, substance abuse or community mental health services are not provided by managed care; therefore, an DCH authorization for medical transportation for these services may still be necessary.
- Transportation services that are billed directly to MA; see **BILLED DIRECTLY TO DCH**.

MEDICAL TRANSPORTATION EVALUATION

Evaluate a client's request for medical transportation to maximize use of existing community resources.

- If the client, or his/her family, neighbors, friends, relatives, etc. can provide transportation, they are expected to do so, **without reimbursement**. If transportation has been provided to the client at no cost, it is reasonable to expect this to continue, except in extreme circumstances or hardship.
- Do not routinely authorize payment for medical transportation. Explore why transportation is needed and all alternatives to payment.
- Do not authorize payment for transportation unless first requested by the client.
- Use referrals to public or nonprofit agencies who provide transportation to meet individual needs without reimbursement.
- Use free delivery services that are offered by a recipient's pharmacy.
- Use bus tickets or provide for other public transportation arrangements.
- Refer to volunteer services or use state vehicles to transport the client if payment for a personal vehicle is not feasible.

LOCAL OFFICE PROCEDURES

It is essential that medical transportation is administered in an equitable and consistent manner. It is important that local offices have procedures to assure medical transportation eligibility and that payment reflect policy. If such procedures do not exist, local office management is to initiate a process that supports this policy.

Transportation Coordination

It is recommended that local/district offices institute a transportation coordinator to ensure that all necessary tasks are done. This position would be responsible for establishing local procedures to assure the following:

- All requests for medical transportation are assessed and processed according to policy and local office procedures.
- Verification of current or pending MA on CIMS is available.
- The DHS-54-A, Medical Needs, is given to eligible clients when required.
- Each client's need for transportation and access to resources are appropriately assessed.
- Maximum use is made of existing community transportation resources.

Note: Many transportation authorities will make tickets/passes available at special rates. The transportation coordinator is encouraged to negotiate with the local transit authority and develop administrative procedures for distribution to recipients. In some areas it may be cost effective for local offices to contract with local transit providers for all or part of transportation services in the local office, such as Agencies on Aging, Intermediate School Districts, local CMHSP.

- Alternative transportation means are used.
- New resources are developed within the community, including the use of social contract participants to act as schedulers, providers or in other supportive roles related to the transportation activities of the local office.
- The Department of Community Health (DCH) is contacted for any required prior authorizations.
- Sufficient MSA-4674-S, Medical Transportation Statement, are given to eligible clients.

- A centralized process for returning completed MSA-4674-S is developed and implemented.
- The amount of reimbursement is correct, authorization for payment is completed and forwarded to the fiscal unit, and payment is processed in a timely manner.
- A local office liaison exists for resolving transportation payment disputes.

Payment Authorization

Authorize payment for medical transportation beginning the month the client reported the need.

At application, do not authorize payment earlier than the MA begin date.

If program eligibility is denied, only authorize payment for transportation to obtain medical evidence.

Some transportation services require prior authorization. See **PRIOR AUTHORIZATION** below.

Transportation services for children and families active for child welfare services and required as part of the services care plan are authorized by services staff. See Childrens Foster Care Manual CFF 903-9, PRNon-Scheduled Payments DHS-634 for policy and procedures. Foster parents that provide medical transportation for a foster child in their care may receive mileage reimbursement at the volunteer driver rate (\$.328 per mile).

REVIEW

Review continued need for medical transportation:

- When indicated on the verification (DHS-54A).
- At redetermination.
- Annually for SSI recipients.

The need for a special allowance must be reviewed yearly; see **Special Allowances**. The need for transportation must be reviewed even if recipient's medical condition is considered lifetime.

DENIAL OF REIMBURSEMENT FOR TRANSPORTATION

Use an DHS-301, Client Notice (Medical Transportation Denial), to notify a client that medical transportation is denied; see RFF. The notice contains:

- The action being taken.
- The reason(s) for the denial.
- BAM 825 as the legal base.
- The individual's right to request a hearing.
- Referring the client to the HMO for transportation services covered by the HMO; see **CLIENTS IN MANAGED CARE**.
- Referring the client to the community mental health services program for transportation covered by their capitation rates; see **CLIENTS IN MANAGED CARE**.
- Referring the client to those providers who are able to bill MA directly; see **BILLED DIRECTLY TO DCH**.

Do not issue an DHS-301 when making a referral.

Bridges Administrative Manual (BAM), 825 Medical Transportation
January 1, 2011

The issue in this case is whether the Department's denial of transportation service to a beneficiary reliant upon SSI can be sustained by the worker's assumption that the beneficiary was being provided transportation free of charge. It cannot. The worker never ascertained the information from the beneficiary that she had free transportation. The worker's own testimony that she made the assumption is relied on to find she assumed this material factor. The Appellant is dependent upon SSI. This is good evidence of her very limited income. She is being driven to her medical appointments and credibly testifying she had to pay for her daughter's gas in order to get there. Her daughter is a student and her chore provider. This is good evidence that her daughter is unable and/or unwilling to afford to pay for her mother's medical transportation without assistance. The Department worker was obligated to at least find out whether the Appellant was being provided the transportation for free or not. Denying the request on the basis of her assumption cannot be sustained.

The Department's decision to deny mileage reimbursement for travel due to a determination that she is getting it for free was not proper.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of


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law, decides that the Department improperly denied the Appellant's request for medical transportation.

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED. The Department shall reimburse the Appellant for travel to her medical appointments as requested on the Medical Transportation forms provided by the Department and submitted.

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:



Date Mailed: 10/25/2011

***** 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.