

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) 373-4147

IN THE MATTER OF:

██████████,

Appellant.

_____ /

Docket No. 2013-35779 TRN

Case No. ██████████

DECISION AND ORDER

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

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████, Appellant's girlfriend, also testified as a witness on his behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Eligibility Specialist at the ██████████ County Department of Human Services (DHS), appeared as a witness for the Department.

ISSUE

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

FINDINGS OF FACT

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

1. Appellant is a Medicaid beneficiary.
2. Appellant lives in ██████████ County, Michigan. (Testimony of Appellant).
3. In ██████████, Appellant submitted two Medical Transportation Statements to the ██████████ County DHS and sought reimbursement for medical transportation provided by Ms. ██████████. (Respondent's Exhibit A, pages 10-15).
4. In the first statement, Appellant identified transportation to ██████████ Hospital in ██████████ County, Michigan, for physical therapy. (Respondent's Exhibit A, page 13).

5. No referring physician was identified in that statement. (Respondent's Exhibit A, page 13).
6. On ██████████, the Department sent Appellant written notice that it was denying his request for medical transportation for physical therapy on the basis that he has chosen a provider who is located outside the community when comparable care is available locally and because there was no medical needs form for ██████████ Hospital. (Respondent's Exhibit A, page 6).
7. In the other statement, Appellant identified transportation to an urologist located in ██████████ County, Michigan. (Respondent's Exhibit A, page 10).
8. The referring doctor in the statement was identified as ██████████. (Respondent's Exhibit A, page 10).
9. However, Dr. ██████████ was not the local physician who had completed Appellant's medical needs form on record with the Department. (Testimony of ██████████).
10. On ██████████, the Department sent Appellant written notice that it was denying his request for medical transportation to the urologist on the basis that Appellant did not provide the necessary verification of the need for medical transportation and the Department did not have a local referral medical needs form from Dr. ██████████. (Respondent's Exhibit A, page 8).
11. On ██████████, the Department received an unsigned Request for Hearing filed by Appellant.
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a signed and complete Request for Hearing filed by Appellant in this matter.

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.

As an initial matter, the Department requested a dismissal based on the untimely filing of a hearing request. The Social Security Act and the federal regulations which implement the Social Security Act require an opportunity for fair hearing to any recipient who believes the Department may have taken an action erroneously. See 42 CFR

431.200 *et seq.* However, the opportunity for fair hearing is limited by a requirement that the request be made within 90 days of the negative action:

Request for hearing.

The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. [42 CFR 431.221(d).]

Therefore, this Administrative Law Judge only has jurisdiction to hear cases brought timely. Here, Appellant is appealing notice of actions dated [REDACTED], but his unsigned appeal was only received on [REDACTED] and a complete appeal only received on [REDACTED]. Accordingly, it appears this Administrative Law Judge lacks jurisdiction to hear Appellant's untimely appeal.

However, Appellant credibly testified that he never received notice of his right to appeal the decision and that, when he did try to file an appeal earlier, DHS workers refused to assist him. Moreover, Appellant's testimony was not rebutted by the Department and the worker who sent the notice of action did not testify at the hearing.

Given the questions regarding notice, this Administrative Law Judge will not dismiss the appeal as untimely and will instead decide the case on its merits.

With respect to the merits of this case, the applicable policy addressing medical transportation coverage under the State Medicaid Plan was found in the Bridges Administrative Manual 825 (10-1-2012) (hereinafter "BAM 825"):

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 VA hospitals and hospitals with do not charge for care (e.g., St. Jude Children's Hospital, Shrines 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** in this item.

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,

██████████
Docket No. 2013-35779 HHS
Decision and Order

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.

[BAM 825, pages 2-3 of 17, (underline added by ALJ).]

Appellant's requests for medical transportation were denied pursuant to the above policy and on the basis that he failed to provide the necessary paperwork and information to justify reimbursement for medical transportation. Specifically, both of Appellant's requests failed to identify a local physician referring Appellant for care outside of ██████████ County. Moreover, in one of the denials at issue in this case, the Department also noted that Appellant has chosen a provider outside of ██████████ County for physical therapy when such care is available within ██████████ County.

In response, Appellant testified that he has been reimbursed for medical transportation in the past when he lived in ██████████ County and he only started having problems with reimbursement after he moved to ██████████ County. However, any reimbursement in ██████████ County is not before this Administrative Law Judge. Moreover, as described in the policy and in ██████████ testimony, Appellant's circumstances and the criteria for medical transportation for doctors in ██████████ County changed when Appellant moved to Sanilac County.

Appellant also argues that it is more efficient and less costly for him to see his doctors in ██████████ County, but, even if that were true, the policy is clear in this case and it must be followed.

As described above, that policy provides that the Department cannot reimburse for medical transportation outside the community unless Appellant is referred elsewhere by his local physician. Similarly, the Department cannot reimburse medical transportation in order to meet a client's personal choice of provider for routine medical care outside the community when comparable care is available locally.

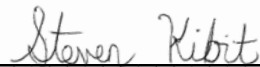
The requests submitted by Appellant in this case did not contain referrals from his local physician. Additionally, the medical care he was transported to appears to be available in [REDACTED] County. Accordingly, the Department properly denied Appellant's requests for reimbursement.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
Date Signed: 7/10/2013

Date Mailed: 7/10/2013

cc: [REDACTED]

***** 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.