

**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:

Docket No. 2013-62578 TRN

██████████

██████████ ██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████ ██████████ daughter, represented the Appellant. ██████████ the Appellant, appeared and testified. ██████████, Appeals Review Officer, represented the Department. ██████████ Eligibility Specialist, appeared as a witness on behalf of the Department.

ISSUE

Did the Department properly deny the Appellant's requests for medical transportation reimbursement because she receives MI Choice Waiver program services?

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. (Exhibit A, pages 3 and 6)
2. The Appellant lives in ██████████ (Exhibit 1, page 4)
3. The Appellant sees doctors in ██████████ and in ██████████. (Exhibit 1, pages 4-6; Appellant Testimony)
4. The Appellant requires transportation assistance as well as someone to accompany her to medical appointments. (Exhibit A, pages 8-9)
5. The Appellant has participated in the MI Choice Waiver program since ██████████. The Appellant's daughter is the caregiver for the homemaker, personal care, and chore services authorized through the MI Choice Waiver program. (Exhibit A, pages 5-7)

6. In ██████ and ██████ the Department received Medical Transportation Statements from the Appellant requesting reimbursement for medical transportation provided by her daughter. (Exhibit 1, page 9)
7. On ██████████, ██████████ and ██████████ the Department denied the Appellant's requests for medical transportation reimbursement because she has transportation available to her without charge by family members, community services, neighbors or friends. (Exhibit 1, pages 6-8; Exhibit A page 4)
8. On ██████████ the Department also issued a notice indicating the Appellant's request for medical transportation reimbursement was denied because she was not a Medicaid recipient. (Exhibit A, page 2)
9. On ██████████, the Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, pages 4-5)

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.

Policy addressing medical transportation coverage under the State Medicaid Plan is found in the Bridges Administrative Manual (BAM), 825 Medical Transportation:

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 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.

Vehicle Rates

The following are reimbursement rates for travel by vehicle:

- Ticket charge per person (one way or round trip) for inter-city bus transportation.
- Round trip rate of \$30 and \$.27 cents per mile for commercial nonemergency medical transport vehicles specially equipped or designed to accommodate non-ambulatory (unable to walk) clients.
- \$.23 per mile for all **personal** vehicles if alternative transportation is not available and mileage reimbursement is necessary. This includes the client, relatives, friends, neighbors, etc.

- \$.27 per mile only for:
 - Commercial non-emergency medical transport vehicles.
 - Nonprofit agencies.
 - Taxis.
 - Vans operated by medical facilities or public entities such as health agencies.

- Registered volunteer services drivers and foster care parents will be reimbursed at \$.555 per mile.

Do not authorize payment for waiting time or multiple trips for a single medical visit.

Note: A state vehicle may be used to transport clients. The local office fiscal unit completes the DHS-1309, Official Daily Travel Log. See the County Accounting Manual for details.

Bridges Administrative Manual (BAM), 825 Medical Transportation
Pages 2-3 and 9-10 of 17, June 1, 2013
(Underline added by ALJ)

The Medicaid Provider Manual sets forth MI Choice Waiver program policy:

4.1 COVERED WAIVER SERVICES

In addition to regular State Plan coverage, MI Choice participants may receive services outlined in the following subsections.

4.1.B. HOMEMAKER

Homemaker services include the performance of general household tasks (e.g., meal preparation and routine household cleaning and maintenance) provided by a qualified homemaker when the individual regularly responsible for these activities, e.g., the participant or an informal supports provider, is temporarily absent or unable to manage the home and upkeep for himself or herself. Each provider of Homemaker services must observe and report any change in the participant's condition or of the home environment to the supports coordinator.

4.1.C. PERSONAL CARE

Personal Care services encompass a range of assistance to enable program participants to accomplish tasks that they would normally do for themselves if they did not have a disability. This may take the form of hands-on assistance (actually performing a task for the participant) or cueing to prompt the participant to perform a task. Personal Care services are provided on an episodic or on a continuing basis. Health-related services that are provided may include skilled or nursing care to the extent permitted by State law.

Services provided through the waiver differ in scope, nature, supervision arrangement, or provider type (including provider training and qualifications) from Personal Care services in the State Plan. The chief differences between waiver coverage and State Plan services are those services that relate to provider qualifications and training requirements, which are more stringent for personal care provided under the waiver than those provided under the State Plan.

Personal Care includes assistance with eating, bathing, dressing, personal hygiene, and activities of daily living. These services may also include assistance with more complex life activities. The service may include the preparation of meals but does not include the cost of the meals themselves. When specified in the plan of service, services may also include such housekeeping chores as bed making, dusting, and vacuuming that are incidental to the service furnished or that are essential to the health and welfare of the participant rather than the participant's family. Personal Care may be furnished outside the participant's home.

4.1.H. CHORE SERVICES

Chore Services are needed to maintain the home in a clean, sanitary and safe environment. This service includes heavy household chores such as washing floors, windows and walls, tacking down loose rugs and tiles, and moving heavy items of furniture in order to provide safe access and egress. Other covered services might include yard maintenance (mowing, raking and clearing hazardous debris such as fallen branches and trees) and snow plowing to provide safe

access and egress outside the home. These types of services are allowed only in cases when neither the participant nor anyone else in the household is capable of performing or financially paying for them, and where no other relative, caregiver, landlord, community or volunteer agency, or third party payer is capable of, or responsible for, their provision. In the case of rental property, the responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service.

4.1.M. NON-MEDICAL TRANSPORTATION

Non-Medical Transportation Services are offered to enable waiver participants to access waiver and other community services, activities, and resources as specified in the individual plan of services. Whenever possible, family, neighbors, friends, or community agencies who can provide transportation services without charge must be utilized before MI Choice provides transportation services.

Non-Medical Transportation Services offered through MI Choice are in addition to medical transportation required under 42 CFR 431.53 and transportation services under the State Plan, defined at 42 CFR 440.170(a), and does not replace State Plan Services. MI Choice transportation services cannot be substituted for the transportation services that MDCH is obligated to provide under the listed citations. Such transportation, when provided for medical purposes, is not reimbursable through MI Choice. When the costs of transportation are included in the provider rate for another waiver service (e.g., Adult Day Health), there must be mechanisms to prevent the duplicative billing of Non-Medical Transportation Services.

Medicaid Provider Manual, MI Choice Waiver
Pages 9-14, April 1, 2013
(Underline added by ALJ)

The Department denied the Appellant's ██████████ and ██████████ requests for medical transportation reimbursement. (Exhibit 1, pages 6-9; Exhibit A pages 2 and 4) The Eligibility Specialist testified that the denial notice that had "you are not a Medicaid recipient" checked was an error. The Eligibility specialist confirmed that all of the denials were actually based on transportation being available to the Appellant by family members, community services, neighbors or friends, etc. Specifically, the Appellant's

medical transportation was provided by her daughter, who is a paid caregiver through the MI Choice Waiver program. Further, the Eligibility Specialist stated that even if the MI Choice Waiver program services were not covering the Appellant's medical transportation, any payment for reimbursing the Appellant's daughter's mileage would still depend on whether volunteer services or state vehicle could be used. The Eligibility Specialist based this on the above Bridges Administrative Manual policy. Specifically the last bullet point under Medical Transportation Evaluation, which indicates a referral should be made to volunteer services or a state vehicle should be used if payment for a personal vehicle is not feasible. The Eligibility Specialist noted that in this case the daughter's vehicle was used, not a personal vehicle of the Appellant's. (Eligibility Specialist Testimony; Exhibit 1, page 9)

The Appellant and her daughter disagree with the denial and testified that it would be an extreme hardship for the Appellant's daughter to transport the Appellant to medical appointments without mileage reimbursement. They explained the distances involved, and that the Department has paid for the mileage reimbursement in the past. They indicated that the MI Choice Waiver program services have been compensating the Appellant's daughter for assisting the Appellant at the appointments or on outings, but not for the mileage expenses for medical transportation. They further stated that no family, friends, or neighbors can provide the Appellant's medical transportation at no cost. (Appellant and Daughter Testimony)

Certainly the Department should be considering maximize use of existing community resources, such as medical transportation assistance that is provided at no cost to the Appellant by family, friends, or other community resources. The Department should not authorize payment for medical transportation expenses, such as mileage reimbursement, when the expense is already being paid for through another program or available to the Appellant without cost. However, the above cited Medicaid Provider Manual policy indicates medical transportation should not be included in the MI Choice Waiver program services. Rather, the state plan services should continue to provide for the Appellant's medical transportation.

The submitted MI Choice Waiver program Service Plan for the Appellant does not specify that the medical transportation mileage reimbursement would be included in her authorized MI Choice Waiver program services. The Appellant's MI Choice Waiver Service Plan indicates the services to be provided through the agency the Appellant's daughter works for are Homemaker, Personal Care, and Chore Services. (Exhibit A, page 6) The above cited Medicaid Provider Manual policy regarding personal care services indicates these services may be provided outside the home. The submitted DHS-54A Medical Needs form indicates that the Appellant needs someone to accompany her to medical appointments. (Exhibit A, pages 8-9) Accordingly, it appears that the portion of Service Plan Comments/Duties that states "attend/transport for medical appointments ... may attend outings with [the Appellant] depending on how she feels" indicates that the Appellant's daughter will be providing personal care services for the Appellant when out of the home for medical appointments and outings. (Exhibit A, page 6) If this is accurate, then the Department would still be responsible for

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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.