

**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. 14-010986 TRN
Case No. ██████████

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 Appellant's request for a hearing.

After due notice, a hearing commenced on ██████████. Attorney ██████████ appeared on Appellant's behalf. Appellant appeared as a witness. ██████████, Appeals Review Officer, represented the Department. ██████████, Manager and ██████████, Community Resource Coordinator, appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's requests for medical transportation because no suitable driver was available?

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 ██████ year old Medicaid beneficiary, born ██████████. (Exhibit 1; Testimony)
2. Appellant currently lives in ██████████ Michigan. Appellant moved to ██████████ in ██████████. Appellant previously lived in ██████████ County and all of her doctors are in ██████████. (Exhibits 1-4, A; Testimony)
3. Appellant is diagnosed with numerous medical conditions, including metabolic encephalopathy brought on by hypoxia and cumulative effects of life-long exposures to pesticides. Appellant cannot drive due to a seizure disorder. (Exhibits 1-4, A; Testimony)
4. Per previous Decisions and Orders, Appellant is entitled to medical transportation to out of area doctors, by a non-smoking female driver, in a

non-smoking vehicle. (Exhibits 1-4; Testimony)

5. Between ██████████ and ██████████, Petitioner submitted 31 written requests for medical transportation. Of the 31 requests for transportation, the Department was able to provide transportation by a non-smoking female driver, in a non-smoking vehicle to 13 of the appointments. The remaining appointments had to be cancelled due to lack of transportation. (Exhibit 3, Testimony)
6. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1)

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.

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 (e.g., 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.**"

LOCAL OFFICE AUTHORIZATION

Travel-Related

Local offices may authorize and pay for the following. Prior authorization may be required; see **PRIOR AUTHORIZATION** and **CLIENTS IN MANAGED CARE** in this item.

* * * *

- Travel within or outside the normal service delivery area including borderland outstate travel (local offices have responsibility for defining normal service delivery area).

Bridges Administrative Manual (BAM)
825 Medical Transportation
Pages 2-3, 5-6 of 20, July 1, 2013

The Department's Community Resource Coordinator testified that the office only had one volunteer driver who met Appellant's requirements for a non-smoking female driver. The Department's Community Resource Coordinator indicated that the driver did provide Appellant transportation to 13 appointments, but if she was unavailable, no-one else was available to drive Appellant. The Department's Community Resource Coordinator also indicated that a few of the appointments were cancelled per Appellant's request and not because there was a lack of a driver. The Department's Community Resource Coordinator indicated that the commercial drivers Appellant wishes to use do not accept the Department's rate, but that they have submitted a request to the Department of Community Health for an exception to the rate, so that Appellant's needs can be met.

Appellant testified that she always tries to combine appointments to lessen the number of transportation requests and that she always submits her transportation requests well in advance and on the proper DHS forms. Appellant testified that she has lost doctors due to all of the cancelled appointments and that she has stopped submitting medical transportation requests altogether since the one volunteer driver who met her needs began working full-time.

Based on the evidence presented, the Department has denied Appellant medical transportation on numerous occasions due to the lack of a qualified driver. The fact that the Department did not send out Negative Action Notices for each denial does not mean that a denial did not occur. Likewise, the fact that transportation was denied because a driver meeting Appellant's requirements could not be found does not mean a denial did not occur. Policy requires that the Department provide medical transportation to Appellant. Per previous Decisions and Orders of this Tribunal, medical transportation for Appellant means transportation by a non-smoking female in a non-smoking vehicle. The Department must continue to provide Appellant such transportation. Hopefully, the Department of Community Health will approve the exception request so that Appellant can use the commercial drivers she uses for non-medical transportation through the MI Choice Waiver Program. If not, the Department still must find a way to meet Appellant's needs.

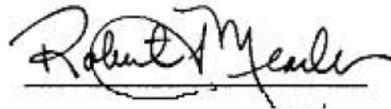
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DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED.



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

cc:

[REDACTED]

RJM [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [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.