

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P. O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax (517) 373-4147

IN THE MATTER OF:

██████████

Appellant

Docket No. 15-010631 CMH

██████████

██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ ██████████ Appellant's mother, appeared on Appellant's behalf.

██████████ Manager, Due Process, appeared on behalf of ██████████ ██████████ (CMH). ██████████, Self-Determination Coordinator, and ██████████, Director of Community Living Supports, appeared as witnesses for the CMH.

ISSUE

Did ██████████ (CMH) properly deny Appellant transportation to medical and dental 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 ██████ year old Medicaid beneficiary, born ██████████ who has been receiving services through ██████████ ██████████ (CMH). (Exhibits A, 1; Testimony).
2. CMH is under contract with the Department of Health and Human Services (DHHS) to provide Medicaid covered services to people who reside in the CMH service area. (Testimony)
3. On ██████████ CMH notified Appellant that they were denying her request for transportation to medical and dental appointments because, per policy, transportation to medical and dental appointments is not the

██████████
Docket No. 15-010631 CMH
Decision and Order

responsibility of CMH, it is the responsibility of the DHHS or the Appellant's Medicaid Health Plan. (Exhibit A, p 2; Testimony)

4. Appellant's request for hearing was received by the Michigan Administrative Hearing System on ██████████ (Exhibit 1)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children or qualified pregnant women or children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services.

42 CFR 430.0

The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program.

42 CFR 430.10

Section 1915(b) of the Social Security Act provides:

The Secretary, to the extent she finds it to be cost-effective and efficient and not inconsistent with the purposes of this subchapter, may waive such requirements of section 1396a

of this title (other than subsection(s) of this section) (other than sections 1396a(a)(15), 1396a(bb), and 1396a(a)(10)(A) of this title insofar as it requires provision of the care and services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State...

The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915(c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Health and Human Services (MDCH) operates a section 1915(b) and 1915(c) Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the Michigan Department of Health and Human Services to provide services under the waiver pursuant to its contract obligations with the Department.

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate scope, duration, and intensity to reasonably achieve the purpose of the covered service. See *42 CFR 440.230*.

The *Medicaid Provider Manual, Mental Health/Substance Abuse* section articulates Medicaid policy for Michigan. It states with regard to transportation:

3.27 TRANSPORTATION

PIHPs are responsible for transportation to and from the beneficiary's place of residence when provided so a beneficiary may participate in a state plan, HSW or additional/B3 service at an approved day program site or in a clubhouse psychosocial rehabilitation program. MHPs are responsible for assuring their enrollees' transportation to the primary health care services provided by the MHPs, and to (nonmental health) specialists and out-of-state medical providers. The DHS is responsible for assuring transportation to medical appointments for Medicaid beneficiaries not enrolled in MHPs; and to dental, substance abuse, and mental health services (except those noted above and in the HSW program described in the Habilitation Supports Waiver for Persons with Developmental Disabilities Section of this chapter) for all Medicaid beneficiaries. (Refer to the local DHS or MHP for additional information, and to the Ambulance Chapter of this manual for information on medical emergency transportation.)

PIHP's payment for transportation should be authorized only after it is determined that it is not otherwise available (e.g.,

Docket No. 15-010631 CMH
Decision and Order

DHS, MHP, volunteer, family member), and for the least expensive available means suitable to the beneficiary's need.

Medicaid Provider Manual
Mental Health/Substance Abuse Chapter
April 1, 2015, p 22

The CMH witness testified that Appellant's request for transportation to medical and dental appointments was denied because, per policy, transportation to medical appointments is not the responsibility of CMH, it is the responsibility of the Department of Health and Human Services or the Appellant's Medicaid Health Plan. The CMH witness indicated that it learned that Appellant had been using CMH transportation in the past for medical and dental appointments, but that once they discovered this fact, they were bound by policy to terminate that part of Appellant's transportation.

Appellant's mother testified that the transportation she had been using for Appellant's medical and dental appointments for the past [REDACTED] years was very good and fit Appellant's severe medical needs. Appellant's mother testified that the transportation she is now receiving through DHS (now DHHS) is inadequate and dangerous for Appellant.

In response, the CMH witness indicated that Appellant would be entitled to the assistance of CLS workers if she could use her own modified van for transportation to medical and dental appointments. The CMH witness also indicated that they could help Appellant's mother with a grievance or appeal if the transportation she was now receiving through DHHS was inadequate.

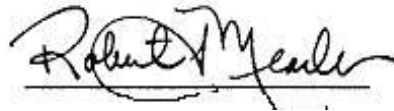
This administrative law judge must follow the CFR and the state Medicaid policy, and is without authority to grant transportation not in accordance with the CFR and state policy. The CMH provided sufficient evidence that it adhered to the CFR and state policy when not authorizing transportation to Appellant's medical and dental appointments. As indicated above, "PIHPs are responsible for transportation to and from the beneficiary's place of residence when provided so a beneficiary may participate in a state plan, HSW or additional/B3 service at an approved day program site or in a clubhouse psychosocial rehabilitation program." And, "The DHS is responsible for assuring transportation to medical appointments for Medicaid beneficiaries not enrolled in MHPs; and to dental, substance abuse, and mental health services." Here, because Appellant is seeking transportation to medical and dental appointments, she must seek that transportation through DHHS. Based on the evidence presented, Appellant failed to prove by a preponderance of the evidence that CMH's decision was improper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that CMH properly denied Appellant transportation to medical and dental appointments.

IT IS THEREFORE ORDERED that:

The CMH decision is **AFFIRMED**.



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Department of Health
and Human Services

Date Signed: ██████████

Date Mailed: ██████████

RJM/db

cc: ██████████
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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.