



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 31, 2017
MAHS Docket No.: 16-017256
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

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 Petitioner's request for a hearing.

With due notice, a telephone hearing was scheduled for January 24, 2017. However, the hearing was not completed on that date and, after the issue on appeal was clarified, Petitioner requested that the hearing be adjourned so that the Department could investigate her claims and properly respond. Petitioner's request was granted and the hearing was adjourned to March 7, 2017.

The hearing was subsequently completed and the record closed on March 7, 2017. Petitioner appeared and testified on her own behalf. [REDACTED] [REDACTED], represented the Respondent Department of Health and Human Services (Department). [REDACTED] [REDACTED], and [REDACTED], testified as witnesses for the Department.

During the hearing, the Department offered two exhibits that were entered into the record:

- Exhibit A: Hearing Summary Packet
- Exhibit B: Hearing Summary Addendum

ISSUE

Did the Department properly deny Petitioner's requests for mileage reimbursement?

FINDINGS OF FACT

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

1. In June of 2016, Petitioner moved to ██████ County, Michigan. (Testimony of Petitioner).
2. At that time, and at all times relevant to this case, Petitioner was receiving outpatient methadone maintenance treatment. (Testimony of Petitioner).
3. Petitioner required transportation to get to those treatments. (Testimony of Petitioner).
4. On July 6, 2016, the Department received a Medical Transportation Statement, Chronic Ongoing Treatment, from Petitioner and her driver in which they sought mileage reimbursement for seven trips in June of 2016. (Exhibit B, pages 5-6).
5. Each trip was identified as an 81 mile round trip, but that amount included the miles that Petitioner's driver travelled to Petitioner's home before transporting her to the doctor's office and the miles the Petitioner's driver travelled going home after dropping Petitioner off. (Exhibit B, page 6; Testimony of Petitioner).
6. On July 22, 2016, the Department received a Medical Transportation Statement, Chronic Ongoing Treatment, in which Petitioner and her driver sought mileage reimbursement for thirteen trips in July of 2016. (Exhibit B, pages 7-8).
7. Each trip was again identified as an 81 mile round trip, which included the distance between the driver's and Petitioner's home. (Exhibit B, page 8; Testimony of Petitioner).
8. On August 3, 2016, the Department received a Medical Transportation Statement, Chronic Ongoing Treatment, in which Petitioner and driver sought mileage reimbursement for seven trips in July of 2016. (Exhibit B, pages 10-11).
9. Each trip was again identified as an 81 mile round trip, which included the distance between the driver's and Petitioner's home. (Exhibit B, page 11; Testimony of Petitioner)
10. On September 2, 2016, the Department received a Medical Transportation Statement, Chronic Ongoing Treatment, in which Petitioner and her driver sought mileage reimbursement for thirteen trips in August of 2016. (Exhibit B, pages 12-13).
11. Each trip was identified as an 11.2 mile round trip. (Exhibit B, page 13).

12. The Department neither approved Petitioner's requests for mileage reimbursement nor sent any written notice of denial. (Testimony of Petitioner; Testimony of Eligibility Specialist).
13. After September 1, 2016, Petitioner's Medicaid coverage was intermittent. (Testimony of Petitioner).
14. Petitioner did submitted additional requests for mileage reimbursement that were not approved. (Testimony of Petitioner).
15. On November 23, 2016, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the denial of Petitioner's request for mileage reimbursement. (Exhibit A, page 4).
16. In February or March of 2017, Petitioner's physician completed a Medical Verification of Transportation form with respect to Petitioner. (Testimony of Petitioner).
17. Petitioner subsequently provided the completed form to the Department, which was the first time she has done so. (Testimony of Petitioner).

CONCLUSIONS OF LAW

The Medicaid program (MA) 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 applicable policy addressing medical transportation coverage under the State Medicaid Plan at the times relevant to this case is found in the Bridges Administrative Manual (BAM) 825 (4-1-2016):

Each Michigan Department of Health and Human Services (MDHHS) office must furnish information in writing and orally, as appropriate, to any requesting individual, acknowledging that medical transportation is **ensured** to and from Medicaid (MA) covered services. The Michigan Medicaid Fee-for-Service Handbook may be used to provide written information.

Local MDHHS staff **must** verify client eligibility prior to the authorization of transportation in order to determine who is responsible for reimbursement.

Reimbursement 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 beneficiary's needs.

Medical transportation is available to:

- Family Independence Program (FIP) recipients.
- MA recipients (including those who also have Children's Special Health Care Services (CSHCS) coverage).
- Supplemental Security Income (SSI) recipients.
- Healthy Michigan Plan (HMP) recipients.

Note: Unless otherwise indicated, medical transportation coverage for HMP recipients is the same as medical transportation coverage for MA recipients.

MDHHS authorized transportation is limited for clients enrolled in managed care; see **CLIENTS IN MANAGED CARE**.

* * *

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: Reimbursement may be made for transportation to U.S. Department of Veteran Affairs hospitals and hospitals which do not charge for care.

MEDICAL TRANSPORTATION NOT COVERED

Do not authorize payment for the following:

- Transportation for non-covered services;

- Waiting time;
- Transportation for medical services that have already been provided;
- Transportation costs for clients residing in a nursing facility. Nursing 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.
- Transportation services that are billed directly to the Medical Services Administration (MSA); see **BILLED DIRECTLY TO MSA.**

Transportation for clients enrolled in managed care is limited. See **CLIENTS IN MANAGED CARE.**

MEDICAL TRANSPORTATION EVALUATION

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

- If a client has resources available to them to provide transportation without reimbursement (for example: personally, or from family or friends) they are expected to utilize them. Local MDHHS staff is encouraged to explore whether such arrangements exist before authorizing transportation. Past circumstances, however, should not determine whether a beneficiary has current or future resources necessary to provide transportation without reimbursement.
- Do not routinely authorize reimbursement for medical transportation. Explore why transportation is needed and all alternatives to reimbursement.
- Do not authorize reimbursement for medical transportation unless first requested by the beneficiary.

- Use referrals to public or nonprofit agencies that provide transportation without reimbursement.
- Utilize free delivery services that may be offered by a beneficiary's pharmacy.
- Use bus tickets or provide for other public transit arrangements.
- Refer to volunteer services or use state vehicles to transport the client if reimbursement for a personal vehicle is not feasible.

VERIFICATION OF MEDICAL NEEDS

Reimbursement of medical transportation requires the annual completion of a DHS-5330, Medical Verification for Transportation, signed by the beneficiary's attending physician, or a physician's assistant or nurse practitioner who is working under the supervision of the attending physician. The local MDHHS office must retain the completed, original DHS-5330 in the beneficiary's file and make it available upon request.

Completion of a DHS-5330 is not required when the transportation is related to determine factors of eligibility, such as employability, incapacity, or disability, or to meet the needs of children for protective services.

* * *

LOCAL OFFICE PROCEDURES

Medical transportation must be administered in an equitable and consistent manner. Local MDHHS offices must have procedures to assure medical transportation eligibility and that reimbursement reflects policy.

Transportation Coordination

It is recommended that local 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 MA policy and local office procedures.
- Verification of current or pending MA eligibility on Bridges is available.
- The DHS-5330, Medical Verification for Transportation, form is given to all eligible clients who request transportation.
- Each client's need for transportation and access to resources is 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 clients.

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, and local Community Mental Health Services Program (CMHSP).

- Alternative transportation means are explored.
- 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 MSA program review division (PRD) is contacted for any required prior authorizations.
- MSA-4674s, Medical Transportation Statements, are provided as needed.

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

LOCAL OFFICE AUTHORIZATION

Travel-Related

Local MDHHS offices may authorize and pay for the following:

- Travel for clients to receive any MA-covered service from any MA-enrolled provider. This includes Early and Periodic Screening Diagnosis and Treatment (EPSDT) and Children's Special Health Care Services (CSHCS) who also have MA coverage.

Note: CSHCS does not cover transportation assistance for clients that have MA coverage. The same criteria must be applied to authorize medical transportation for dually eligible CSHCS/MA clients as for other MA clients.

Some local health departments provide reimbursement for transportation to clients for EPSDT screenings or the Maternal Outpatient Support Services (MOMS) program. Check with your local health department prior to authorization to guard against duplicate reimbursements.

- Travel and a fee for an attendant needed to accompany a client requiring special assistance during transport.
- Travel for a parent, relative, guardian or attendant who is accompanying a client who is a minor child.
- Travel for family members of clients who are children in an inpatient hospital treatment program, if the family members are part of a structured treatment or therapy program.

- Travel for one trip for examination and one trip per Disability Determination Service recommendation for clients claiming disability or blindness.
- Travel within or outside the normal service delivery area including borderland outstate travel (local offices have responsibility for defining normal service delivery area).

* * *

REIMBURSABLE EXPENSES

Compute the cost of the client's medical transportation when verification that transportation has been provided is received. Calculate the total number of round trip miles traveled. Use the distance from the client's home to the medical services destination(s) and back to the client's home. Accept any reasonable client or transporter statement of the mileage. Otherwise, use map miles to determine mileage.

Exception: Volunteer Services drivers can be paid mileage for the distance from their home or office to the client's home and the return trip from the client's home in addition to the round trip mileage for the client's medical services. Volunteer service drivers cannot be paid for mileage when the client either failed to keep the appointment or was not at home.

* * *

DENIAL OF REIMBURSEMENT FOR TRANSPORTATION

A DHS-301, Client Notice (Medical Transportation Denial), must be used to notify a client that medical transportation is denied. 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.

BAM 825, pages 1-15

Here, the Department denied Petitioner's requests for mileage reimbursement pursuant to the above policy. Specifically, as testified to by its witnesses, the Department never approved the requests for mileage reimbursement because, between June and

November of 2016, Petitioner never provided the required Medical Verification for Transportation form completed by her doctor. The Eligibility Specialist also testified that she discussed the need for the form with Petitioner and sent a blank copy of the form to Petitioner and her doctor multiple times. The Eligibility Specialist further testified that, even if the form had been received, there may still be potential issues with reimbursing for medical transportation given the availability of public transportation and the fact that the Department would not pay for a driver to come from another county to drive Petitioner. The Eligibility Specialist also noted that Petitioner had an unmet spend-down and inactive Medicaid for a couple of months and, during that time, medical transportation could not be approved.

In response, Petitioner testified that she turned in numerous forms and always provided what the Department asked for, including a letter from her doctor describing why Petitioner cannot use public transportation. Petitioner also testified that the Department failed to approve the requests or provide written notices of denial, and that it instead provided shifting reasons for why the requests were not approved. Petitioner further testified that it should not have taken eight months for the Department to request the proper forms and Petitioner was disrespected throughout the process. Petitioner agreed that she first provided a completed Medical Verification for Transportation form in February of 2017,

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying her requests.

Given the record in this case, Petitioner has failed to meet that burden of proof with and the Department's decision must be affirmed. While the Department erred by failing to provide Petitioner with written notice of the denials, the undisputed evidence in this case also demonstrates that Petitioner is not entitled to the requested reimbursement. Petitioner herself concedes that no DHS-5330 form regarding a Medical Verification for Transportation was provided prior to the requests at issue in this case and such a form is expressly required by the above policy before reimbursement of medical transportation can be approved. Moreover, the majority of the requests in the record include the mileage the driver incurred in travelling to-and-from Petitioner's home before-and-after the actual medical transportation was provided, and such mileage is not covered.

Petitioner asserts that any failure to provide the required form or inaccuracy in the identified miles is the fault of the Department, and that her testimony is backed up by email correspondence between her and the Department. However, no such correspondence is in the record and the undersigned Administrative Law Judge does not find Petitioner credible with respect to her claim that the Department never requested a Medical Verification for Transportation until months later, especially given that Petitioner did provide a letter from her doctor and the Department's exhibit includes a copy of verification form generated for Petitioner in June of 2016.

Accordingly, given the clear policies and the evidence in the record, Petitioner has failed to meet her burden of proof and the Department's decision must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied Petitioner's requests for mileage reimbursement.

IT IS, THEREFORE, ORDERED that:

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



SK/tm

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS Department Rep.

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