



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: April 5, 2017  
MAHS Docket No.: 17-000126  
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.*, upon a request for hearing filed on Petitioner's behalf.

After due notice, a hearing was held on February 22, 2017.<sup>1</sup> [REDACTED], Petitioner's mother and legal guardian, appeared and testified on Petitioner's behalf. [REDACTED], Appeals Review Officer, appeared and testified on behalf of the Respondent Department of Health and Human Services (Department). [REDACTED], Eligibility Specialist, also testified as a witness for the Department.

**ISSUES**

- (1) Did the Department fail to fully reimburse Petitioner for past medical transportation trips?
- (2) Did the Department use the wrong mileage rate when reimbursing Petitioner for those trips?
- (3) Did the Department err in denying Petitioner's request that his representative be reimbursed at the volunteer/foster parent mileage rate during future trips?

**FINDINGS OF FACT**

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

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<sup>1</sup> For purposes of hearing, Petitioner's case was consolidated with a similar matter involving his [REDACTED] in Docket No. [REDACTED] TRN.

1. During the years 2015 and 2016, Petitioner required transportation in order to attend medical appointments or hospitalizations. (Testimony of Petitioner's representative).
2. During each trip, Petitioner was driven by his mother/representative in her personal vehicle. (Testimony of Petitioner's representative).
3. Petitioner's representative is also one of Petitioner's plenary co-guardians. (Exhibit 1, pages 7-8).
4. Petitioner is non-ambulatory, but his representative's vehicle is equipped to accommodate him. (Testimony of Petitioner's representative; Testimony of Department's representative).
5. For each trip, Petitioner and his representative requested reimbursement for medical transportation, with Petitioner's representative specifically noting that Petitioner needed special transportation, *i.e.* a van with a wheelchair lift. (Testimony of Petitioner's representative).
6. Following the trips, the Department reimbursed Petitioner's representative for medical transportation at the rate of [REDACTED] per mile. (Testimony of Petitioner's representative).
7. On October 19, 2016, Petitioner's representative emailed the Department and requested prior approval for multiple trips for Petitioner with respect to scheduled medical appointments and hospitalizations. (Exhibit C, pages 1-2).
8. As part of that request, Petitioner's representative asked that she be reimbursed at the rate paid for non-emergency medical transport vehicles specially equipped or designed to accommodate non-ambulatory clients. (Exhibit C, pages 1-2).
9. On October 24, 2016, the Department sent Petitioner's representative written notice that the request for medical transportation was denied for the reasons discussed in emails attached to the denial and pursuant to the provisions of BAM 825. (Exhibit A, page 1).
10. In part, the attached emails provided that the requested rate only applies to commercial non-emergency medical transportation vehicles, and Petitioner's representative is using a personal vehicle. (Exhibit A, page 5).
11. On January 12, 2017, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit 1, pages 1-12).

12. As part of that request, Petitioner claimed that the Department used the wrong reimbursement rate when reimbursing Petitioner's representative for past medical transportation trips. (Exhibit 1, page 2).
13. On February 22, 2017, an administrative hearing was held in this matter and, during that hearing, Petitioner's representative asked that Petitioner's third claim be dismissed as moot and agreed to a dismissal without prejudice of Petitioner's first claim. (Testimony of Petitioner's representative).

### 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.**

MDHHS Transportation is limited for clients enrolled in managed care, see **CLIENTS IN MANAGED CARE.**

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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 a client 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.

\* \* \*

## **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).

### **Meals and Lodging**

Local MDHHS offices may authorize and pay for the following:

- Medically necessary overnight stays (inpatient or outpatient, including meals and lodging) for one client, and one parent or escort, for no more than five consecutive nights; See **PRIOR AUTHORIZATION** for stays beyond five nights.
- Medically necessary overnight stays (including meals and lodging) for one child and one parent or escort, admitted at Children's Hospital of Michigan, C.S. Mott Children's Hospital, or Helen DeVos Children's Hospital for up to 14 nights; see **PRIOR AUTHORIZATION** for stays beyond 14 nights.
- Overnight stays if travel is 50 miles (one-way) or more from the beneficiary's home; see **PRIOR AUTHORIZATION** for overnight stays when the distance is less than 50 miles.

- Meal allowance associated with long-term recovery housing for bone marrow transplant operations at U of M or Harper University Hospital (amount determined by MDHHS) and prior authorized through the transplant coordinator. Lodging necessary prior to bone marrow transplant operation is to be paid.
- Meals for trips not involving overnight stays.

\* \* \*

## **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.

### **Missed Appointments or Cancellations**

Do not authorize reimbursement to non-emergency transportation providers for missed or cancelled appointments.

### **Vehicle Rates**

The following are reimbursement rates for travel by vehicle:

- Ticket charge per person (one way or round trip) for inter-city bus or public transit.
- Round trip rate of \$30 and \$0.27 cents per mile for non-emergency medical transport vehicles specially equipped or designed to accommodate non-ambulatory (unable to walk) clients.

- \$0.23 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.
- \$0.27 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.
- \$0.555 per mile for all registered volunteer service drivers or foster care parents.

**Note:** A state vehicle may be used to transport clients; see ACM 416, Medical Transportation Payments.

### **Public Transit**

Have a supply of public transit tickets, tokens, passes, etc. available for clients who wish to use public transit for medical transportation.

**Note:** Public transit tickets, tokens, passes, etc. intended for MA clients must be purchased and tracked separately from those intended for HMP clients; they are not interchangeable.

### **Fees and Tolls**

Necessary travel-related fees and tolls, such as parking, bridge and ferry charges, are reimbursable if verified with original, unaltered receipts.

### **Meals and Lodging**

See Exhibit I, **ESSENTIAL MEDICAL TRANSPORTATION RATE SCHEDULE** for appropriate meal and lodging allowances. Authorized expenses must be verified with original, itemized, unaltered receipts.

Encourage lodging providers to bill the local office directly when overnight accommodations are authorized.

Reflect actual cost of lodging or meals when advance reimbursements are made for less than the maximum table rates.

**LOCAL OFFICE AUTHORIZATION** describes meals and lodging for stays at certain pediatric hospitals. Attempt to secure lodging at Ronald McDonald House for the parent. Authorize lodging at area motels or the MED-INN only after you have determined that lower cost lodging is not available.

The U of M social work department will not reimburse on behalf of clients or bill MDHHS directly for meals and lodging.

### **Exceptions to Reimbursement Rates**

Exceptions to the maximum reimbursement rate must be prior authorized by MSA PRD.

All exception requests must clearly document at least one of the following:

- No appropriate transportation provider is available within the county.
- No appropriate medical facility is available within the county.
- Mileage (one-way) exceeds 50 miles.
- The quoted rate is the lowest available. Include quotes from a minimum of three providers.
- The provider is the only one available.

### **Reimbursement Authorization**

A completed, original MSA-4674 is necessary to authorize reimbursement for routine travel expenses and to verify that the transportation was provided, unless the expenses require advance reimbursement. An MSA-4674 does not

need to be signed by transporters employed by either a city or inter-city mass transit provider.

The local office must receive the MSA-4674 from the transportation provider within 90 calendar days from the date of service to authorize reimbursement. The local office must then approve the MSA-4674 and submit it to the appropriate MDHHS accounting service center within 10 business days of receipt of the form.

\* \* \*

### **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, as discussed above, while Petitioner raised three claims regarding medical transportation in the request for hearing, two are no longer at issue at this time. For example, with respect to Petitioner's claim that the Department erred in denying a request that Petitioner's representative be reimbursed at the volunteer/foster parent mileage rate during future trips, Petitioner's representative stated that the matter was moot and should be dismissed. Similarly, with respect to Petitioner's claim that the Department failed to fully reimburse Petitioner for past medical transportation, the parties resolved the matter and agreed it should be dismissed. Specifically, the Department agreed to go back through past payments, break down the nature of those payments for Petitioner's representative, and reconcile any discrepancies. In turn, Petitioner's representative agreed to have the claim dismissed without prejudice.

Still in dispute is whether the Department used the wrong mileage rate when reimbursing Petitioner and his representative for past trips involving medical transportation.

Regarding that dispute, Petitioner's representative testified and argued that the Department erred by using the [REDACTED] per mile rate used for personal vehicles. In particular, she argued that the rate used by the Department did not apply because Petitioner is non-ambulatory and requires the use of an non-emergency medical

transport vehicle specially equipped or designed to accommodate non-ambulatory clients, which are to be reimbursed at a round trip rate of [REDACTED] and [REDACTED] cents per mile pursuant to BAM 825. According to Petitioner's representative, that increased rate applies anytime a client needs a specially equipped vehicle, regardless of who is driving or whether the vehicle is commercial or not. She also notes that nothing in BAM 825 provides that the requested rate is limited to commercial vehicles, especially given that commercial vehicles are also listed separately from the requested rate. Petitioner's representative further cited to a booklet from the Centers for Medicare and Medicaid Services (CMS) for its provisions regarding the use of the least expensive mode of transportation available that is appropriate for a client; codes regarding transportation by a guardian from the Healthcare Common Procedure Coding System (HCPCS); and the newer policies regarding Medical Transportation found in a bulletin and the Medicaid Provider Manual (MPM), in support of her conclusion that there is no exclusion for personal vehicles and that a special transportation allowance is available for all types of vehicles and drivers when necessary and appropriate.

In response, while the Department's representative agreed that Petitioner was non-ambulatory, the Department's Eligibility Specialist testified that Petitioner's request for a different rate was reviewed and denied after multiple conversations and consultations within the Department. She also testified that, as provided in an email forwarded to Petitioner's representative, rates are based in the most part on who is driving the vehicle and, if a parent or guardian is driving, then they are only eligible to receive the rate paid for personal vehicles. The Department's Eligibility Specialist further testified that only commercial non-emergency medical transportation companies are able to receive the rate requested by Petitioner.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his request for a different mileage reimbursement rate.

Given the record and applicable policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must be affirmed. The relevant facts in this case are basically undisputed and the parties agree that Petitioner is non-ambulatory; he requires the use of a vehicle specially equipped or designed to accommodate non-ambulatory clients; his mother's vehicle is so equipped; and she had been providing his medical transportation in that vehicle. However, even considering those facts, the applicable policy is clear and it provides for the rate paid by the Department. Specifically, BAM 825 identified a rate of \$[REDACTED] per mile for all personal vehicles, including vehicles driven by relatives, if alternative transportation is not available and mileage reimbursement is necessary. The vehicle of Petitioner's representative, who is also his mother and legal guardian, is therefore considered a personal vehicle for purposes of BAM 825, and she and Petitioner should be reimbursed at the rate paid for all personal vehicles, regardless of whether Petitioner also requires special accommodations.

To the extent Petitioner's representative cites a CMS booklet, HCPCS codes regarding transportation and newer Medicaid policies in support of her position, the undersigned Administrative Law Judge does not find her persuasive. At best, Petitioner's representative can show that nothing in those sources expressly forbids paying a guardian or relative a higher rate if the client requires a specially equipped vehicle and, even so, that would be insufficient given the plain language of BAM 825 that expressly provides that all personal vehicles are reimbursed at a certain rate.

Accordingly, as Petitioner's representative's vehicle qualifies as a personal vehicle under BAM 825 and all such vehicles are reimbursed at a rate of [REDACTED] per mile, the Department's decision was proper.

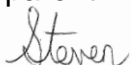
### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that, with respect to Petitioner's remaining claim, the Department properly denied Petitioner's requests for a different mileage reimbursement rate.

**IT IS, THEREFORE, ORDERED** that:

- (1) By agreement of the parties, Petitioner's claim that the Department failed to fully reimburse him for past medical transportation is **DISMISSED WITHOUT PREJUDICE**.
- (2) The Department's decision to deny requests for mileage reimbursement at the round trip rate for non-emergency medical transport vehicles specially equipped or designed to accommodate non-ambulatory clients is **AFFIRMED**.
- (3) Having been withdrawn, the claim that the Department erred in denying Petitioner's guardian a volunteer/foster parent mileage rate is **DISMISSED**.

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**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.

[REDACTED]  
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