



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: February 18, 2020
MOAHR Docket No.: 19-012348
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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on January 16, 2020. Petitioner, through the use of an interpreter, appeared and testified on his own behalf. Allison Pool, Appeals Review Officer, appeared and testified on behalf of the Respondent Michigan Department of Health and Human Services (MDHHS or Department).

During the hearing, the Department submitted one evidence packet that was admitted into the record as Exhibit A, pages 1-15.

At the completion of the hearing, both parties requested that the record be left open so that they could submit additional evidence. The undersigned Administrative Law Judge then granted the request and the record was left open until February 7, 2020. The Department subsequently submitted an additional evidence packet, which was entered into the record as Exhibit B, pages 1-6. Petitioner did not submit any additional evidence.

ISSUE

Did the Department properly deny Petitioner's request for non-emergency medical transportation (NEMT)?

FINDINGS OF FACT

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

1. Beginning April 1, 2018, Petitioner has a scope of coverage of "2B" with respect to the Medicaid program, which makes him a Qualified Medicare Beneficiary (QMB) through the Medicare Savings Program. (Exhibit A,

page 8; Exhibit B, pages 3-5).

2. Pursuant to that scope of coverage and program, Medicaid will only pay Petitioner's Medicare Parts A and B premiums, coinsurances, and deductibles. (Exhibit B, pages 3-5).
3. In 2019, Petitioner requested medical transportation through Medicaid and the Department. (Exhibit A, page 7).
4. On October 18, 2019, the Department sent Petitioner written notice that his request for medical transportation had been denied on the basis that he is not a Medicaid recipient. (Exhibit A, page 7).
5. On November 26, 2019, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding that denial. (Exhibit A, page 6).

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.

Policy addressing medical transportation coverage under the State Medicaid Plan is found in the Bridges Administrative Manual (BAM) 825 and, as provided in BAM 825, NEMT may be a service available to Medicaid beneficiaries:

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 non-emergency medical transportation (NEMT) is **ensured** to and from Medicaid (MA) covered services. The Michigan Medicaid Fee-for-Service (FFS) Handbook may be used to provide written information.

* * *

LOCAL OFFICE PROCEDURES

Medical transportation must be administered in an equitable and consistent manner. Local MDHHS offices must have documented 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 and **ensuring** that Medicaid policy is followed.

- 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.
- 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.

REIMBURSEMENT AUTHORIZATION

- Authorize reimbursement for medical transportation beginning the month the client reported the need.
- At application, do not authorize reimbursement earlier than the MA begin date. If program eligibility is denied, only authorize reimbursement for transportation to obtain medical evidence.
- Some transportation services require prior authorization.
- Foster parents that provide medical transportation for a foster child in their care may receive mileage reimbursement at the volunteer driver rate.

REVIEW

Review continued need for medical transportation:

- When indicated on the DHS-5330.
- At redetermination.
- Annually for SSI recipients.

The need for transportation must be reviewed even if a client's medical condition is considered lifetime.

REIMBURSABLE EXPENSES

Compute the cost of the client's medical transportation when verification that transportation has been provided is received. Accept any reasonable client or transporter statement of the mileage. Otherwise, use map miles to determine mileage.

An NEMT database is available on the MDHHS website at www.michigan.gov/medicaidproviders >> Billing and Reimbursement >> Provider Specific Information and includes the most current information pertaining to NEMT reimbursement rates and services. The database is reviewed and updated as applicable.

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

BAM 825, pages 1-3

Similarly, the chapter of the applicable version of the Medicaid Provider Manual (MPM) regarding NEMT also provides in part:

SECTION 1 – INTRODUCTION

This chapter applies to non-emergency medical transportation (NEMT) providers and authorizing parties. The Medicaid NEMT benefit is covered for Medicaid, MICHild, and Healthy Michigan Plan (HMP) beneficiaries, and for Children's Special Health Care Services (CSHCS) beneficiaries who also have Medicaid coverage.

Federal law at 42 CFR 431.53 requires Medicaid to ensure necessary transportation for beneficiaries to and from services that Medicaid covers. The NEMT benefit must be

administered to beneficiaries in an equitable and consistent manner.

Beneficiaries are assured free choice in selecting a Medicaid medical provider to render services. A beneficiary's free choice of medical provider selection does not require the Medicaid program to cover transportation beyond the standards of coverage described in this policy in order to meet a beneficiary's personal choice of medical provider.

Forms referenced in this chapter are accessed via the beneficiary's case worker and are maintained on MI Bridges. The Medical Transportation Statement (MSA-4674) is also available on the Michigan Department of Health and Human Services (MDHHS) website. (Refer to the Directory Appendix for website information.)

*MPM, October 1, 2019 version
NEMT Chapter, page 1*

Here, the Department denied Petitioner's request for medical transportation on the basis that he is not a Medicaid recipient.

In support of that decision, the Department provided documentation regarding Petitioner's scope of coverage, which is limited to the Department paying Medicare premiums, coinsurances, and deductibles.

In response, Petitioner testified regarding his health problems, lack of driver's license, and need for medical transportation. He also testified that he has always had insurance.

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

Given the record in this matter, Petitioner has failed to meet that burden of proof and the Department's decision must therefore be affirmed. While the reason for denial given in the notice sent to Petitioner, *i.e.* that Petitioner is not a Medicaid recipient, was incorrect, given that Petitioner is a QMB and has some limited coverage through Medicaid, the record also reflects that Petitioner's coverage is limited to the Department paying Medicare premiums, coinsurances and deductibles, and it does not include the medical transportation he seeks.

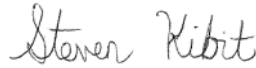
DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

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

SK/sb



Steven Kibit
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI
48933

Agency Representative

Allison Pool
222 N Washington Square
Suite 100
Lansing , MI
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Petitioner

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