



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 7, 2021
MOAHR Docket No.: 21-001616
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

Following Petitioner's request for hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a telephone hearing was held on May 6, 2021. Petitioner appeared on her own behalf. Allison Pool, Appeals Review Officer, represented the Department. Carlene Krepps, Manistee DHS, appeared as a witness for the Department.

The Department's Hearing Summary packet was admitted as Exhibit A, pp 1-37.

ISSUE

Did the Department properly deny Petitioner's request for medical transportation reimbursement to a medical provider outside the community?

FINDINGS OF FACT

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

1. Petitioner is a Medicaid beneficiary eligible for Non-Emergency Medical Transportation (NEMT) through the Department. (Exhibit A, p 2; Testimony)
2. Petitioner lives in [REDACTED] Michigan. (Exhibit A, p 5; Testimony)
3. On October 28, 2020, Petitioner submitted a mileage reimbursement request for trips to a gastroenterologist in Ann Arbor, Michigan on [REDACTED] 2020 and [REDACTED] 2020. (Exhibits A, pp 10-11; Testimony)
4. The gastroenterologist office in Ann Arbor, Michigan is 532 miles roundtrip from Petitioner's home in [REDACTED] Michigan. (Exhibit A, pp 10-11; Testimony)

5. There is a fully accredited gastroenterologist office affiliated with Munson Medical Center in Traverse City, Michigan that is closer to Petitioner's home. (Exhibit A, pp 17-21; Testimony)
6. On March 15, 2021, the Department issued a Medical Transportation Notice denying Petitioner's request for medical transportation assistance because Petitioner had chosen a provider who is located outside the community when comparable care is available locally. (Exhibit A, pp 7-8; Testimony)
7. On March 31, 2021, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, p 6; Testimony)
8. With her request for hearing, Petitioner submitted a letter from the gastroenterologist in Ann Arbor, Michigan, dated March 22, 2021, which indicates that the type of surgery performed on Petitioner is only performed at Michigan Medicine. (Exhibit A, p 12; Testimony)
9. Also, with her request for hearing, Petitioner submitted a bill and receipt for a hotel stay in Ann Arbor the night before her [REDACTED] 2021 procedure, which was also denied by the Department. However, since this action post-dates Petitioner's request for hearing, it is not a part of this appeal. If Petitioner wishes to appeal this denial, she must do so separately.

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 non-emergency medical transportation coverage under the State Medicaid Plan is found in the Medicaid Provider Manual. In part, this policy states:

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.

SECTION 11 – NON-COVERED SERVICES

The following transportation services are not reimbursable:

- Waiting time;
- Trips that were provided prior to approval from the authorizing party;
- Multiple trips for a single Medicaid service;
- When a beneficiary failed to keep their appointment;
- Trips to and from services that are not covered (e.g., grocery store, non-Medicaid covered medical services);
- Routine medical care outside a beneficiary's community when comparable care is available locally, unless prior authorized;
- Transportation to and from services for individuals who have not met their spend-down;
- Expenses for services that have already occurred;
- Services for long-term care beneficiaries. Routine, non-emergency medical transportation provided for long-term care residents in a van or other non-emergency vehicle is included in the facility's per diem rate. This includes transportation for medical appointments, dialysis, therapies, or other treatments not available in the facility. (Refer to the Nursing Facility Coverages chapter of this manual for additional information regarding NEMT for long-term care beneficiaries);
- Transportation for managed care program enrollees for services covered under the program contract (refer to the Managed Care Programs section of this chapter for additional information); and

- Transportation for services provided in FQHCs.

*Medicaid Provider Manual (MPM)
Non-Emergency Medical Transportation Chapter,
July 1, 2020, pp 1; 18-19*

The Department's witness testified that on October 28, 2020, Petitioner submitted a mileage reimbursement request for trips to a gastroenterologist in Ann Arbor, Michigan on [REDACTED] 2020 and [REDACTED] 2020. The Department's witness indicated that the gastroenterologist office in Ann Arbor, Michigan is 532 miles roundtrip from Petitioner's home in [REDACTED] Michigan while there is a fully accredited gastroenterologist office affiliated with Munson Medical Center in Traverse City, Michigan that is closer to Petitioner's home. The Department's witness testified that on March 15, 2021, she issued a Medical Transportation Notice denying Petitioner's request for medical transportation assistance because Petitioner had chosen a provider who is located outside the community when comparable care is available locally. The Department's witness testified that the letter Petitioner later submitted from the U of M doctor was not submitted with the original request for reimbursement so was not considered when the decision was made. The Department's witness indicated that this is not the first time Petitioner has dealt with transportation issues so she should have known that the letter from the U of M doctor needed to be submitted ahead of time, or at least with the mileage reimbursement request, to be considered.

Petitioner testified that the only place where they have the machine to do this particular surgery is at U of M. Petitioner indicated that her family physician had recommended that Petitioner go to U of M for the surgery as they are the only place that can repair damage that occurs over the years after a patient has bariatric surgery. Petitioner testified that she was not that concerned about getting a letter from the doctor at U of M because she knew that doctor was the only one in Michigan that could do the procedure she needed. Petitioner testified that once she got the Notice from the Department and appealed, she quickly got the letter from the doctor at U of M.

Based on the evidence presented, the Department's denial of Petitioner's request for medical transportation was in accordance with the above cited policy. Petitioner traveled 532 miles roundtrip to see a gastroenterologist in Ann Arbor when there is an accredited gastroenterologist office affiliated with Munson Medical Center in Traverse City, Michigan that is closer to Petitioner's home. And, while Petitioner submitted a letter from the U of M gastroenterologist indicating that she is the only doctor in Michigan that can perform the procedure Petitioner needed, that letter was not sent to the Department until after the denial was already made. This ALJ can only base his decision on information available to the Department at the time the decision was made. Based on that information, the Department's decision was correct. Therefore, based on the evidence presented, the Department's determination to deny Petitioner's request for medical transportation must be upheld because it was within policy.

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 to a medical provider outside the community.

IT IS, THEREFORE, ORDERED that:

The Department's decision is AFFIRMED.



RM/sb

Robert J. Meade
Administrative Law Judge

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

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Petitioner

