



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: September 17, 2021  
MOAHR Docket No.: 21-003744  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**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 September 15, 2021. Petitioner appeared on her own behalf. John Lambert, Appeals Review Officer, represented the Department. Carlene Krepps, Manistee DHS, appeared as a witness for the Department.

**Exhibits:**

Petitioner	None
Department	A – Hearing Summary

**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 Kaleva, Michigan. (Exhibit A, p 6; Testimony)
3. On July 14, 2021, Petitioner submitted a mileage transportation statement for trips to a pain management center in Lansing, Michigan along with a letter from Dr. VandenBerg indicating treatment at another facility would be

detrimental to Petitioner's health. (Exhibits A, pp 10-12; Testimony)

4. The pain management center in Lansing, Michigan is 342 miles roundtrip from Petitioner's home in Kaleva, Michigan. (Exhibit A, p 20; Testimony)
5. There are pain management facilities in Traverse City, Michigan, Cadillac, Michigan, and Ludington, Michigan, all of which are closer to Petitioner's home. (Exhibit A, pp 31-36; Testimony)
6. On July 15, 2021 and again on August 14, 2021, the Department issued Medical Transportation Notices 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 13, 26; Testimony)
7. On August 16, 2021, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, p 4; Testimony)

## **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.

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## **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.<sup>1</sup>

The Department's witness testified that Petitioner sought reimbursement for trips to a pain clinic in Lansing, Michigan. The Department's witness indicated there are several pain clinics located much closer to Petitioner's home. The Department's witness testified that Medical Transportation Notices denying Petitioner's request for medical transportation assistance were issued because Petitioner had chosen a provider who is located outside the community when comparable care is available locally.

Petitioner testified to a new letter that was issued recently in September of 2021 that indicated she needed to be seen at the clinic in Lansing, Michigan. The Department's witness testified that the letter Petitioner referenced should be submitted with a new Medical Transportation Notice for review.

Based on the evidence presented, the Department's denial of Petitioner's request for medical transportation was in accordance with the above cited policy. 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.

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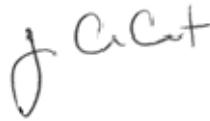
<sup>1</sup> Medicaid Provider Manual, Non-Emergency Medical Transportation, July 1, 2020, pp 19.

**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**.



CA/dh

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**Corey Arendt**  
Administrative Law Judge  
for Elizabeth Hertel, 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**

John Lambert  
MDHHS Appeals Section  
PO Box 30807  
Lansing, MI 48909

**Petitioner**

[REDACTED]  
MI [REDACTED]