

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2021
Signature Confirmation

Client ID # ██████████
Request # 168235

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, Veyo, LLC (“Veyo”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) changing her approved mode of transportation for non-emergency medical appointments from mileage reimbursement to Public Transportation (Bus Pass) for failing to follow the rules for mileage reimbursement.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal Veyo’s change to her mode of non-emergency medical transportation services.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, at the Appellant’s request, OLCRAH issued a notice rescheduling the hearing for ██████████ 2021.

On ██████████ 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
Shevonne Alexis, QA Coordinator for VEYO
Karen Reid, QA Supervisor for VEYO
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

Whether the Department's change to the Appellant's mode of non-emergency medical transportation was in accordance with statute and regulation.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
2. VEYO is a broker contracted by the Department to provide non-emergency medical transportation (NEMT) to Medicaid-eligible clients for trips to access Medicaid-covered services. (Hearing Record)
3. VEYO offers different types of NEMT services including public transportation, livery service and mileage reimbursement. (Hearing Record)
4. The Appellant was approved for mileage reimbursement NEMT since at least [REDACTED] 2019. (Ex. 2: Demand Letter Re: Mileage Reimbursement Audit and Request for Repayment)
5. VEYO's Mileage Reimbursement Guidelines state, in relevant part, "The healthcare provider must sign the form for each date the member was driven to their appointment with that provider. Trips without a signature will not be paid. Additionally, each trip will be confirmed with the healthcare provider before payment is made." (Ex. 4: VEYO Mileage Reimbursement Guidelines)
6. On [REDACTED] 2020, VEYO concluded an investigation of fraud, waste, and abuse (FWA) for the Appellant. The investigation concluded that the Appellant may have engaged in fraud and, on that date, VEYO sent the Appellant a Demand Letter requesting repayment for invalid claims. (Ex. 2)
7. As part of the FWA investigation the Appellant's NEMT trips were audited, which involved contacting medical providers to confirm that the Appellant attended the appointment in question, and consulting the Department's claims payment system to confirm that the appointment for which mileage reimbursement was claimed resulted in a payment issued for a Medicaid-covered service. (Hearing Record)
8. The audit examined 399 of the Appellant's medical trips. Of the 399 trips, 323 were confirmed. For 73 trips, VEYO was not able to confirm that the Appellant was seen by a covered healthcare provider. (Ex. 2)
9. VEYO's [REDACTED] 2020 Demand Letter took no official action. It was a request to the Appellant for voluntary repayment. (Ex. 2, Ms. Reid's testimony)

10. On [REDACTED] 2020, VEYO sent the Appellant an NOA changing the type of NEMT she received from mileage reimbursement to Public Transportation due to Member Fraud. (Ex. 1: NOA)
11. The Appellant, on several occasions, unknowingly attended mental health group therapy appointments that she was not eligible for under her Medicaid plan. She attended several sessions per week but learned later that she was only entitled to attend one group therapy appointment per week. (Appellant's testimony)
12. The Appellant failed to follow mileage reimbursement rules and filed invalid claims for mileage reimbursement. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-262 of the Connecticut General Statutes (Conn. Gen. Stat.) provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. Title 42 of the Code of Federal Regulations (C.F.R.) Sec. 440.170(a)(4) provides as follows:

Non-emergency medical transportation brokerage program. At the option of the State, and notwithstanding § 431.50 (statewide operation) and § 431.51 (freedom of choice of providers) of this chapter and § 440.240 (comparability of services for groups), a State plan may provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide non-emergency medical transportation services for individuals eligible for medical assistance under the State plan who need access to medical care or services, and have no other means of transportation. These transportation services include wheelchair vans, taxis, stretcher cars, bus passes and tickets, secured transportation containing an occupant protection system that addresses safety needs of disabled or special needs individuals, and other forms of transportation otherwise covered under the state plan.

2. "The Commissioner of Social Services shall only authorize payment for the mode of transportation service that is medically necessary for a recipient of assistance under a medical assistance program administered by the Department of Social Services." Conn. Gen. Stat. § 17b-276(c)
3. Section 17-134d-33 of the Regulations of Connecticut State Agencies (Regs. Conn. State Agencies) provides that, "These regulations set forth the requirements for payment of Medical Transportation Services rendered to persons determined eligible for such services under provisions of Connecticut's Medical Assistance Program in accordance with Section 17-134d of the General Statutes of Connecticut."

4. "Medicaid assures that necessary transportation is available for recipients to and from providers of medical services covered by Medicaid, and, subject to this regulation, may pay for such transportation." Regs. Conn. State Agencies § 17-134d-33(e)(1)(A)
5. "An appropriate method of transportation is the least expensive type of transportation which best meets the physical and medical circumstances of a recipient requiring transportation to a medical service." Regs. Conn. State Agencies § 17-134d-33(b)(7)
6. "The Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient." Regs. Conn. State Agencies § 17-134d-33(e)(2)(A)
7. **The Appellant demonstrated a failure to comply with mileage reimbursement rules. Her filing of multiple invalid claims for trips that were not for Medicaid-covered appointments resulted in both inefficient delivery of services and unnecessary cost.**
8. **The Department, through its contractor, VEYO, correctly determined that Mileage reimbursement was not the most appropriate type of transportation for the Appellant. Veyo's decision to change the Appellant's approved mode of NEMT was in accordance with statute and regulation.**

DISCUSSION

VEYO's Demand Letter was not an NOA. It took no action and had no legal effect and was simply a request for repayment. As such, the overpayment alleged in the letter is not addressed in this decision.

The language of VEYO's NOA made unfortunate use of the word "fraud" as the reason for the action taken. None of the evidence presented at the hearing proved fraud.

Even though no fraud was established, the action taken by VEYO was still valid. The FWA investigation was not only to identify fraud but also waste and abuse. The existence of 73 invalid claims was more than enough reason for VEYO to invoke the Department's authority to determine that a different mode of transportation was more appropriate for the Appellant. The NOA should have identified a different justification for the change, however.

DECISION

The Appellant's appeal is **DENIED**.

James Hinckley
James Hinckley
Hearing Officer

cc: Srinivas Bangalore, DSS
Hunter Griendling, VEYO
Mark Fenaughty, VEYO
Shevonne Alexisi, VEYO
Karen Reid, VEYO

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within **25** days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a(a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The **45** day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than **90** days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.