

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

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request # 763011

NOTICE OF DECISION

PARTY

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

On ██████████ 2016, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) reducing her level of medical transportation benefits under the Medicaid program, effective ██████████ 2016.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s decision to reduce such benefits.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, in accordance with sections 17b-60, 17-61 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
████████████████████ Appellant’s friend
Jasper Redd, Logisticare Call Center Manager
Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence. On ██████████ 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to reduce the Appellant's medical transportation service from livery service to mass transit is correct.

FINDINGS OF FACT

1. The Appellant is 46 years old (D.O.B. █████70) who is a Medicaid program recipient. (Appellant's Testimony; Exhibit 4: PTR form)
2. LogistiCare is the broker responsible for authorizing and arranging non-emergency medical transportation for Medicaid recipients. (Department's Summary)
3. The Appellant suffers from Fibromyalgia and Osteoarthritis of her hip that causes her pain when standing and walking. (Appellant's Testimony)
4. The Appellant lives within four blocks of a bus line. (Department's Summary; Appellant's Testimony)
5. On █████ 2016, LogistiCare sent the Appellant a notice advising her that as of █████ 2016, medical transportation would no longer be provided by livery as this transportation is not medically necessary and there is another type of transportation that is less costly and as effective. (Exhibit 2: Notice of Action dated █████ 2016)
6. LogistiCare received from the Appellant's physician Dr. Teresa Barnett, several incomplete Physician Transportation Restriction ("PTR") forms that indicated that the Appellant suffers from back and hip pain without listing the Appellant's medical diagnosis. (Department's Testimony; Appellant's Testimony; Exhibit 4: PTR form)
7. LogistiCare communicated to the Appellant and to Dr. Teresa Barnett's office why the submitted PTR forms were incomplete and that they needed to enter a medical diagnosis on the submitted PTR form. (Department's Testimony; Exhibit 4: PTR form; Exhibit 5: Case Narrative)
8. On █████ 2016, LogistiCare sent the Appellant a letter advising that a grievance review had been conducted regarding the level of transportation. The review determined that since the Appellant lives within four blocks of a bus line and since no documentation from the physician was completed including a medical reason and diagnosis why the Appellant could not travel by bus, livery transportation was not authorized. (Hearing Summary; Department's Testimony; Exhibit 3: LogistiCare Notice of Action dated █████ 2016)

9. At the time of the hearing, LogistiCare did not have a completed PTR form from Dr. Theresa Barnett or a medical provider, indicating the Appellant's diagnosis and medical necessity regarding her ability to use public transportation to her medical appointments. (Department's Testimony; Appellant's Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 and 17b-262 of the Connecticut General Statutes provides that the Department of Social Services is the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act. The Commissioner may make such regulations as are necessary to administer the medical assistance program.
2. Section 17-134d-33 (a) of the Connecticut Agencies 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 Connecticut General Statutes.
3. Section 17-134d-33 (e)(1)(A) of the Connecticut Agencies Regulations provide that 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.
4. Section 17-134d-33 (f)(1) of the Connecticut Agencies Regulations provide that the Department may pay for transportation services which are required in order for a recipient to receive necessary medical care which is covered under the Medicaid program.
5. Section 17-134d-33 (e)(1)(B) of the Connecticut Agencies Regulations provide payment for transportation may be made for eligible recipients under the Medicaid program, except as otherwise provided in these regulations, when needed to obtain necessary medical services covered by Medicaid, and when it is not available from volunteer organizations, other agencies, personal resources, or is not included in the medical provider's Medicaid rate.
6. Section 17-134d-33 (e)(2)(A) of the Connecticut Agencies Regulations provide the Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient.
7. Section 17-134d-33 (e)(2)(C) of the Connecticut Agencies Regulations provide the Department may pay for only the least expensive appropriate method of transportation, depending on the availability of the service and the physical and medical circumstances of the patient.

8. Section 17-134d-33(e)(3)(A) provides in part that to obtain authorization for livery service the following information is required: (i) The provider name; (ii) The recipient's name and Medicaid number; (iii) Relevant diagnosis of the recipient which indicates the need for the type of transportation; (iv) origin and destination of trip; (v) reason for trip; (vi) date of trip; (vii) town code(s); (viii) procedure code(s).
9. LogistiCare was correct when it reduced the Appellant's medical transportation services from livery service as it was not the least expensive, appropriate method of transportation and LogistiCare did not receive a complete PTR form indicating the Appellant's medical diagnosis for livery transportation.

DECISION

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



Shelley Starr
Hearing Officer

cc: Carol Lynne Gironda, Logisticare,
Mary Ann Gunn, Logisticare,
Brenda Wilder, Logisticare,
Holly Novicelli, Logisticare
Musa Mohamud, Operations Manager, Hartford

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 Administrative Hearings and Appeals, 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, 55 Elm Street, 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 the Commissioner's 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.