

STATEMENT OF THE ISSUE

The issue to be decided is whether LogistiCare's discontinuance of livery service through the Medicaid program as not medically necessary was in accordance with state statutes and state regulations.

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. LogistiCare is the Department's contractor for reviewing and scheduling Medicaid recipient's requests for non-emergency medical transportation. (Hearing Record)
3. [REDACTED] ("Representative") is the Appellant's authorized representative. (Hearing Record)
4. On [REDACTED] 2016, the Appellant requested livery service to attend a medical appointment on [REDACTED] 2016. (Exhibit 2: Notice of Action)
5. On [REDACTED] 2016, LogistiCare issued a notice of Action to the Appellant. The notice stated livery services will end on [REDACTED] 2016 because there is another type of transportation that is less costly and as effective. LogistiCare authorized mass transit as the method of transportation available to the Appellant because livery services are not medically necessary. (Exhibit 2: Notice of Action)
6. On [REDACTED] [REDACTED] 2016, LogistiCare faxed a Physician Transportation Restriction Form ("PTR") to [REDACTED] and [REDACTED], the Appellant's physicians, (the "Appellant's physicians") at the Dubois Center ("Medical Practice"). (Hearing Summary)
7. On [REDACTED] 2016, the Department received page seven of a medical report from the Representative on behalf of the Appellant. Page seven signed by the Appellant's physicians at the Medical Practice lists the Appellant's function to travel in unfamiliar places or use public transportation as markedly limited. (Exhibit A: Medical Statement)
8. On [REDACTED] 2016, the Department forwarded page seven of a medical report to LogistiCare. (Hearing Record)

9. On ██████ 2016, LogistiCare faxed a PTR to the Appellant's physicians at the Medical Practice. (Hearing Summary)
10. LogistiCare did not receive a completed PTR from the Medical Practice. (LogistiCare Representative's Testimony)
11. On ██████ 2016, the Department received a completed ten page medical report signed by the Appellant's physicians at the Medical Practice dated ██████ 2016. (Exhibit B: Medical Report)
12. The Appellant's diagnosis under the five axes of the Diagnostic and Statistical Manual of Mental Disorders as Axis I: Schizophrenia, Axis II: Deferred, Axis III: Obesity, Axis IV: Unemployed, homeless, education issues, axis V GAF score as 45. The Appellant experiences both visual and auditory hallucinations which interfere with functioning daily. (Exhibit B: Medical Report)
13. The Appellant is unable to perform activities within a schedule, maintain regular attendance, or be punctual within customary tolerances. (Exhibit B: Medical Report)
14. The Appellant's capacity to interact appropriately with the public is moderately limited. The Appellant's capacity to maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness is markedly limited. (Exhibit B: Medical Report)
15. The Appellant is unable to travel in unfamiliar places or use public transportation. (Exhibit B: Medical Report)
16. The Appellant's ability to be aware of normal hazards and take appropriate precautions is markedly limited. (Exhibit B: Medical Report)

CONCLUSIONS OF LAW

1. Connecticut General Statute ("Conn. Gen. Stats.") § 17b-2(6) provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Statute provides that the Commissioner of Social Services shall only authorize payment for the mode of transportation services that is medically necessary for a recipient of assistance under a medical assistance program administered by the Department of Social Services. [Conn. Gen. Stats. 17b-276c]

3. State Statute provides (a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are: (1) Consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease; (3) not primarily for the convenience of the individual, the individual's health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition. [Conn. Gen. Stat. § 17b-259b]
4. State statute provides that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. [Conn. Gen. Stat. § 17b-259b(b)]
5. State statute provide that upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. [Conn. Gen. Stat. § 17b-259b(c)]
6. Regulations of the Connecticut State Agencies ("Conn. Agencies Regs.") § 17-134d-33(d) provides that payment for medical transportation services is available for all Medicaid eligibility recipient subject to the conditions and limitations which apply to these services.

Chapter 7 Section 175D of the Medical Services Policy provides that payment for medical transportation is available for all Medicaid eligible

recipients subject to the conditions and limitations which apply to these services.

7. Regulation provides that 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. [Conn. Agencies Regs. § 17-134d-33(e)(1)(B)]

Chapter 7 Section 175E(I)(b) of the Medical Services Policy provides that 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.

8. Regulation provides that the Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient. [Conn. Agencies Regs. § 17-134d-33(e)(2)(A)]

Chapter 7 Section 175E(II)(a) of the Medical Services Policy provides that the Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient.

9. Regulation provides that 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. [Conn. Agencies Regs. § 17-134d-33(e)(2)(C)]

Chapter 7 Section 175E(II)(c) of the Medical Services Policy provides that the Department may pay for only the least expensive appropriate method of transportation, depending on the availability of the services and the physical and medical, circumstances of the patient.

10. Regulation provides that payment may be made for livery transportation if no alternative less expensive means of transportation is available as determined by the Department. [Conn. Agencies Regs. § 17-134d-33(e)(2)(G)(i)(bb)]

Chapter 7 Section 175E(II)(g)(1)(bb) of the Medical Services Policy provides that payment may be made for livery transportation if no alternative less expensive means of transportation is available as determined by the Department.

11. Regulation provides 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. [Conn. Agencies Regs. § 17-134d-33(f)(1)]

Chapter 7 Section 175F(I) of the Medical Services Policy provides 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.

12. Regulation provides that all transportation services required written prior authorization, except emergency ambulance, non-emergency ambulance with designated medical conditions, instate invalid coach and wheelchair accessible livery services with designated diagnoses, bus, train, and private transportation within the same town. Prior authorization for transportation services is required as listed below. Prior authorization, when required, may be given for single or multiple trips, depending on the circumstances. Multiple trips, where medical need has been shown, can be authorized for periods up to a maximum of three months at a time. An example would be a recipient receiving dialysis services. [Conn. Agencies Regs. § 17-134d-33(f)(2)]

Chapter 7 Section 175F(II) of the Medical Services Policy provides that all transportation services required written prior authorization, except emergency ambulance, non-emergency ambulance with designated medical conditions, in-state invalid coach and wheelchair accessible livery services with designated diagnoses, bus, train, and private transportation within the same town. Prior authorization for transportation services is required as listed below. Prior authorization, when required, may be given for single or multiple trips, depending on the circumstances. Multiple trips, where medical need has been shown, can be authorized for periods up to a maximum of three months at a time. An example would be a recipient receiving dialysis services.

13. The Appellant's medical condition meets the criteria for severity as established in state regulations to support medical necessity.
14. The Appellant's medical condition meets the criteria to authorize payment for travel to medical appointments by livery service because his medical condition prevents him from accessing mass transit which would jeopardize his ability to maintain his achievable health and independent functioning.

15. LogistiCare was incorrect to deny prior authorization because the Appellant does not meet the medical necessity criteria for livery service transportation in accordance with state statutes and regulations.
16. On [REDACTED] 2016, LogistiCare incorrectly discontinued the Appellant's livery service transportation to medical appointments and replaced it with mass transit.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. LogistiCare must approve the Appellant's prior authorization request for non-emergency medical transportation as livery service.
2. Compliance is due [REDACTED] 2016.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Carol Lynne Gironda, LogistiCare
Mary Ann Gunn, LogistiCare
Holly Novicelli, LogistiCare
Sana Mian, LogistiCare
[REDACTED]

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.