

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

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

Client ID # ██████████
Request # 785313

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, LogistiCare Solutions, LLC (“LogistiCare”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) partially denying his request for non-emergency medical transportation services (“NEMT”).

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

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an 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 Daughter
Cheryl Smith, LogistiCare Representative
Pamela J. Gonzalez, Hearing Officer

The hearing record was held open to allow LogistiCare a chance to further research the issue in an attempt to resolve the matter.

LogistiCare submitted additional information on ██████████ 2016.

The Appellant responded to LogistiCare's submission of additional information on [REDACTED] 2016.

Both submissions were entered into the hearing record.

The hearing record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue is whether LogistiCare correctly denied the Appellant's request for authorization of livery service NEMT.

FINDINGS OF FACT

1. The Appellant is enrolled in the Connecticut Medicaid program. (Hearing record)
2. The Appellant resides in the town of [REDACTED]. (Hearing record)
3. LogistiCare Solutions, LLC is the NEMT broker responsible to authorize and arrange non-emergency medical transportation to eligible Medicaid members for covered medical appointments. (Hearing record)
4. On [REDACTED] 2016, the Appellant requested that LogistiCare authorize payment for livery transportation to a medical appointment at Hartford Hospital. (Notice dated [REDACTED] 2016 – LogistiCare exhibit 2)
5. On [REDACTED] 2016, LogistiCare sent to the Appellant a notice indicating that effective [REDACTED] 2016, the transportation/level of transportation that he was receiving was no longer the least expensive appropriate method of transportation and that NEMT services were being reduced. (LogistiCare exhibit 2)
6. On [REDACTED] 2016, LogistiCare sent to the Appellant a letter stating that for members who live within four blocks of a bus line, or other form of public transportation, DSS requires a doctor's note indicating a medical reason for livery. LogistiCare did not have a doctor's note or notation of verbal communication on file regarding the medical need for livery service. (Letter dated [REDACTED] 2016 – LogistiCare exhibit 3)
7. On [REDACTED] 2016, LogistiCare issued a letter stating that it had since received a letter from the Appellant's physician confirming the medical need for livery service. (Letter dated [REDACTED] 2016 – LogistiCare exhibit 4)

8. On ██████████ 2016, the Appellant submitted via FAX a letter recognizing that LogistiCare has reversed its determination that he is not eligible for livery service and is scheduling his rides. (Appellant's exhibit A)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes ("CGS") provides that the Department of Social Services ("The Department") 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 17b-276 (b) of the CGS provides that notwithstanding any other provision of the general statutes, for purposes of administering medical assistance programs, including, but not limited to, the state-administered general assistance program and programs administered pursuant to Title XIX or Title XXI of the Social Security Act, the Department of Social Services shall be the sole state agency that sets emergency and nonemergency medical transportation fees or fee schedules for any transportation services that are reimbursed by the Department for said medical assistance programs
3. Section 17-134d-33 (a) of the Regulations of Connecticut State Agencies ("RCSA") sets 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.
4. Section 17-134d-33 (d) of the RCSA provides that payment for medical transportation services is available for all Medicaid eligible recipients subject to the conditions and limitations which apply to these services.
5. Section 17-134d-33 (e)(1)(A) of the RCSA provides 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.
6. Section 17-134d-33 (e)(1)(B) of the RCSA 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.
7. Section 17-134d-33 (e)(2)(A) of the RCSA provides that the Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient.

8. Section 17-134d-33(f)(3)(B)(iii) of the RCSA provides, in part, that trips by livery and taxi other than those listed in (i) and (ii) above are arranged and authorized by the District Office, as follows: (aa) the request for transportation is made to the District Office by the recipient, the medical provider, or someone acting on behalf of the recipient; (bb) the District Office is responsible for verifying that the trip is for a medical purpose, and that the particular type of transportation is appropriate, necessary, and the least costly means...

9. Subsequent to the close of the hearing, LogistiCare verified that livery service is appropriate and necessary for the Appellant.

10. Subsequent to the close of the hearing, LogistiCare granted the Appellant's request for medical transportation by livery because livery service is appropriate and necessary.


DISCUSSION

Initially LogistiCare did not have a physician's statement on file confirming the Appellant's medical need for livery service. That confirmation has since been received and the Appellant's request for services has been granted.

Accordingly, there is no issue to be decided.

DECISION

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


Pamela J. Gonzalez
Hearing Officer

Copy: Carol Lynne Girona, LogistiCare
Mary Ann Gunn, LogistiCare
Holly Novicelli, LogistiCare
Cheryl Smith, Logisticare

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, 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 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.

