

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

[REDACTED] 2017
SIGNATURE CONFIRMATION

REQUEST #806157

CLIENT ID # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2016, LogistiCare Solutions, LLC, the medical transportation broker for the Department of Social Services (the "Department") responsible for authorizing non-emergency medical transportation ("NEMT") sent [REDACTED] [REDACTED] [REDACTED] (the "Appellant") a Notice of Action ("NOA") changing his type of non emergency medical transportation from livery service to mass transit, and stating that this type of NEMT did not meet the criteria of being medically necessary, pursuant to Section 17b-259b of the Connecticut General Statutes, due to the lack of medical documentation on file supporting the Appellant's need to travel by livery service.

On [REDACTED] 2017, the Appellant requested an administrative hearing to contest LogistiCare's changing of his type non-emergency medical transportation service.

On [REDACTED] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling an administrative hearing for [REDACTED] 2017 @ 1:00 PM. OLCRAH granted the Appellant a continuance.

On [REDACTED] 2017, OLCRAH rescheduled the administrative hearing for [REDACTED] 2017 @ 11:00 AM.

On [REDACTED] 2017, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
Cheryl Smith, Representative for LogistiCare Solutions, LLC
Hernold C. Linton, Hearing Officer

The hearing record was held open for the submission of additional evidence. The hearing record was closed on ██████████ 2017.

STATEMENT OF THE ISSUE

The issue to be decided is whether LogistiCare's change in the Appellant's type of non-emergency medical transportation from livery service to mass transit is correct and in accordance with state law.

FINDINGS OF FACT

1. The Appellant is an eligible recipient of medical assistance under the Medicaid program. (Appellant's testimony; Hearing Summary)
2. The Appellant had been receiving livery service to travel to ██████████ for Physician Services, located at ██████████ CT for his non-emergency medical appointments. (Appellant's testimony; Hearing Summary)
3. On ██████████ 2016, the Department's medical transportation broker ("LogistiCare Solutions, LLC") received a request from the Appellant for livery service to travel to his non-emergency medical appointment with ██████████ for ██████████ 2016. (Dept.'s Exhibit #2: ██████████/16 Notice of Action)
4. LogistiCare Solutions conducted a review of the Appellant's level of transportation, and discovered that it did not have the required medical documentation on file supporting the Appellant's need to travel by livery service to his non-emergency medical appointments. (Hearing Summary)
5. On ██████████ 2016, LogistiCare Solutions sent a Notice of Action to the Appellant informing him that although he had been receiving livery service in the past to travel to his non-emergency medical appointments, this type of NEMT was denied as not medically necessary, because there is another type of transportation that is less costly and as effective, and that he was approved for the use of mass transit to travel to his non-emergency medical appointments, effective ██████████ 2016. (Hearing Summary; Dept.'s Exhibit #2)
6. On ██████████ 2017, LogistiCare Solutions informed the Appellant of the need to have an updated Physician Transportation Restriction ("PTR") form on file supporting his need to travel by livery service to his non-emergency medical appointments. (Hearing Summary)
7. On ██████████ 2017, LogistiCare Solutions contacted the Appellant's provider and faxed to the provider a PTR form for completion indicating the Appellant's medical reason why he needs to travel by livery service. (Hearing Summary)

8. On [REDACTED] 2017, and [REDACTED] 2017, LogistiCare Solutions faxed another PTR form to the provider for completion indicating the Appellant's medical reason why he needs to travel by livery service. (Hearing Summary)
9. LogistiCare Solutions determined that the Appellant resides on a direct bus line, his traveling to [REDACTED] for Physician Services is also on a direct bus line, and that LogistiCare Solutions would provide him with bus passes for his Medicaid covered services. (Hearing Summary; Dept.'s Exhibit # 3)
10. LogistiCare Solutions determined, based on the medical evidence, that the Appellant's non-emergency medical transportation needs could be met with the use of mass transit and other forms of public transportation, which is less costly and as effective. (Hearing Summary)
11. On [REDACTED] 2017, LogistiCare Solutions sent a notice to the Appellant stating that a grievance review of his level of transportation was conducted, and determined that for members who reside within four blocks of a bus line or other forms of public transportation, a doctor's note indicating the medical reason for livery service is required, and that LogistiCare Solutions did not have a doctor's note on file for the Appellant indicating his medical reason for livery service. (Hearing Summary; Dept.'s Exhibit # 3: Letter, dated [REDACTED]/17)
12. LogistiCare Solutions would provide the Appellant with bus passes to travel for his Medicaid covered services upon receiving verification of his non-emergency medical appointments. (Hearing Summary; Dept.'s Exhibit # 3)
13. The Appellant is 50 years of age (DOB [REDACTED]/66). (Appellant's testimony; Appellant's Exhibit A: Medical Records)
14. The Appellant is afflicted with chronic back and chest pain. (Appellant's testimony; Appellant's Exhibit A)
15. The Appellant resides with his mother. (Appellant's testimony; Appellant's Exhibit A)
16. The Appellant is the caretaker of his elderly mother. (Appellant's testimony; Appellant's Exhibit A)
17. On [REDACTED] 2016, the Appellant helped his mother to lift a sofa. (Appellant's Exhibit A)
18. The Appellant is able to complete his activities of daily living without assistance. (Appellant's testimony; Appellant's Exhibit A)
19. LogistiCare Solutions contacted the Appellant's provider, and was informed by Dr. [REDACTED] that the Appellant does not need livery service at this time. (Dept.'s Exhibit #4: Letter from LogistiCare Solutions, dated [REDACTED] 2017; Dept.'s Exhibit #5: PTR, dated [REDACTED] 2017)

20. LogistiCare Solutions did not receive evidence from the Appellant's provider to support his need to travel by livery service to his non-emergency medical appointments. (Hearing Summary; Dept.'s Exhibit # 3)
21. There is no medical evidence documenting the Appellant's need to travel by livery service to his non-emergency medical appointments. (Hearing Summary; Dept.'s Exhibit # 3)

CONCLUSIONS OF LAW

1. 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. [Conn. Gen. Stat. § 17b-2; Conn. Gen. Stat. § 17b-3]
2. Any transportation providers awarded a contract or subcontract by the Commissioner for the direct provision of such services shall meet state licensure or certification requirements and the non-emergency transportation requirements established by the Department of Social Services and shall provide the most cost effective transportation service. [Conn. Gen. Stat. §17b-276(a)]
3. 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-276c]
4. Section 17b-259b of the Connecticut General Statutes states that "Medically necessary" and "medical necessity" defined. Notice of denial of services Regulations. (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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.

(c) 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.

5. Payment for medical transportation services is available for all Medicaid eligible recipients subject to the conditions and limitations that apply to these services. [Conn. Agencies Reg. § 17-134d-33(d)]
6. Medicaid assures that necessary transportation is available to recipients to and from providers of medical services covered by Medicaid, and subject to regulations, may pay for such transportation. [Conn. Agencies Reg. § 17-134d-33(e)(1)]
7. 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 Reg. § 17-134d-33(e)(1)(B)]
8. Transportation may be paid only for trips to or from a medical provider for the purpose of obtaining medical services covered by Medicaid. If the medical service is paid for by a source other than the Department, the Department may pay for the transportation as long as the medical service is necessary and is covered by Medicaid. [Conn. Agencies Reg. §17-134d-33(e)(1)(C)]
9. The Department reserves the right to make the determination as to which type of transportation is the most appropriate for a recipient. [Conn. Agencies Reg. § 17-134d-33(e)(2)(A)]
10. 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 Reg. § 17-134d-33(e)(2)(C)]
11. 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 Reg. § 17-134d-33(f)(1)]

12. Medical Services Policy § 175E Medical Transportation Services:

I. Services Covered

- (a) 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.
- (b) 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 provider's Medicaid rate.
- (c) Transportation may be paid only for trips to and from a medical provider for the purpose of obtaining medical services covered by Medicaid. If the medical service is paid for by a source other than the Department, the Department may pay for the transportation as long as the medical service is necessary and is covered by Medicaid.

II Service Limitations

- (a) The Department reserves the right to make the determination as to which type of transportation is the most appropriate for the recipient.
- (b) The Department reserves the right to limit its payment of transportation to the nearest appropriate provider of medical services when it has made a determination that traveling further distances provides no medical benefit to the recipient.
- (c) 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.

(g) Livery

- 1. Payment may be made for livery transportation if:

- aa. the patient is ambulatory and may require assistance; or

- bb. no alternative less expensive means of transportation is available as determined by the Department.
- 13. The severity of the Appellant's medical condition does not meet the statutory definition of medically necessary and medical necessity for receiving livery service to travel to his non-emergency medical appointments.
- 14. The Appellant's provider feels that the Appellant does not need livery service to meet his non-emergency medical transportation needs.
- 15. LogistiCare Solutions correctly determined that the Appellant resides within four blocks of a bus line or other forms of public transportation, and that his provider [REDACTED] is also on a direct bus line.
- 16. LogistiCare Solutions correctly concluded that the Appellant's non-emergency medical transportation needs could be met with the use of mass transit, which is less costly and as effective.
- 17. LogistiCare Solutions correctly changed the Appellant's non-emergency medical transportation type from livery service to mass transit.
- 18. LogistiCare Solutions correctly determined that livery service is not medically necessary to meet the Appellant's transportation needs for his non-emergency medical appointments.

DECISION

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



Hernold C. Linton
Hearing Officer

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 06105-3725.

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.