

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

██████████ 2017  
Signature Confirmation

Client ID # ██████████  
Request # 812139

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, LogistiCare Solutions, LLC (“LogistiCare”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) partially denying her request for non-emergency medical transportation services (“NEMT”).

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2017.

On ██████████ 2017, 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  
Serge Mihaly, LogistiCare Representative  
Pamela J. Gonzalez, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue is whether LogistiCare correctly denied the Appellant's request for authorization of 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 Non-Emergency Medical Transportation broker responsible to authorize and arrange non-emergency medical transportation to eligible Medicaid members for covered medical appointments. (Hearing record)
4. On [REDACTED] 2017, LogistiCare sent to the Appellant a notice indicating that effective [REDACTED] 2017, the transportation/level of transportation that she was receiving was no longer medically necessary and NEMT services were being reduced. (Notice dated [REDACTED] 2017 – Agency exhibit 2)
5. On [REDACTED] 2017, upon returning home from out-patient surgery, the Appellant received by mail the Department's notice of action partially denying her non-emergency medical transportation request. (Appellant's testimony)
6. On [REDACTED] 2017 and [REDACTED] 2017, LogistiCare called the Appellant regarding the need to have a Physician Transportation Restriction ("PTR") Form completed. A voicemail message was left. (LogistiCare representative's testimony)
7. On [REDACTED] 2107, the Appellant phoned LogistiCare and left a voicemail message asking for a return phone call. (LogistiCare representative's testimony)
8. On [REDACTED] 2017. LogistiCare returned the Appellant's phone call leaving a voicemail message regarding the need for the completion of the PTR Form. (LogistiCare representative's testimony)
9. The Appellant has multiple chronic medical conditions. (Appellant's testimony)

10. At the time of her request for NEMT, the Appellant did not have a Primary Care Physician (PCP) but she had an appointment to see a new doctor (PCP) on [REDACTED] 2017. (Appellant's testimony)
11. On [REDACTED] 2017, LogistiCare mailed a letter to the Appellant informing her that it had conducted a grievance review and that because there is no doctor's note on file regarding the need for NEMT and because she is on a direct bus line, the request for livery service was denied. It advised that bus passes could be provided at least five to seven business days prior to appointments. (Notice dated [REDACTED] 2017 – Agency exhibit 3)
12. As of the date of this hearing, LogistiCare had not received medical information providing reason to authorize livery as medical transportation. (Hearing record)

### **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. LogistiCare's attempts to verify that livery service is appropriate and necessary for the Appellant were unsuccessful.

10. LogistiCare had authority to deny the Appellant's request for medical transportation by livery because it did not have verification that livery service is appropriate and necessary.

## **DISCUSSION**

In cases such as this, the regulations require that there exist a medical need for transportation to medical appointments by livery when the individual resides within four blocks of a bus line.

LogistiCare properly requested medical documentation of the Appellant's need for livery but did not receive it.


The Appellant explained that she has multiple chronic medical conditions and that she did not feel comfortable asking the provider of the service for which she needed livery to document medical need but nor did she ask any other provider to do so.

LogisitCare's representative explained that should the documentation be received, the issue would resolve.

I have no authority to grant an exception to the regulations and find that lacking the required medical statement or documentation of need, LogistiCare was correct to partially deny NEMT.

**DECISION**

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

  
Pamela J. Gonzalez  
Hearing Officer

Copy: Carol Lynne Girona, LogistiCare  
Mary Ann Gunn, LogistiCare  
Holly Novicelli, LogistiCare  
Mildred Rosado, LogistiCare  
Serge Mihaly, 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.

