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

2020 Signature confirmation

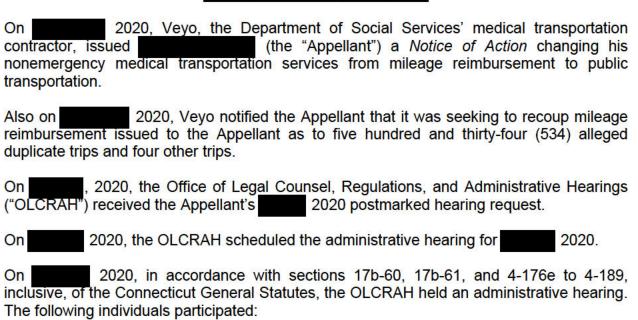
Case: Client: Request: 154918

NOTICE OF DECISION

<u>PARTY</u>

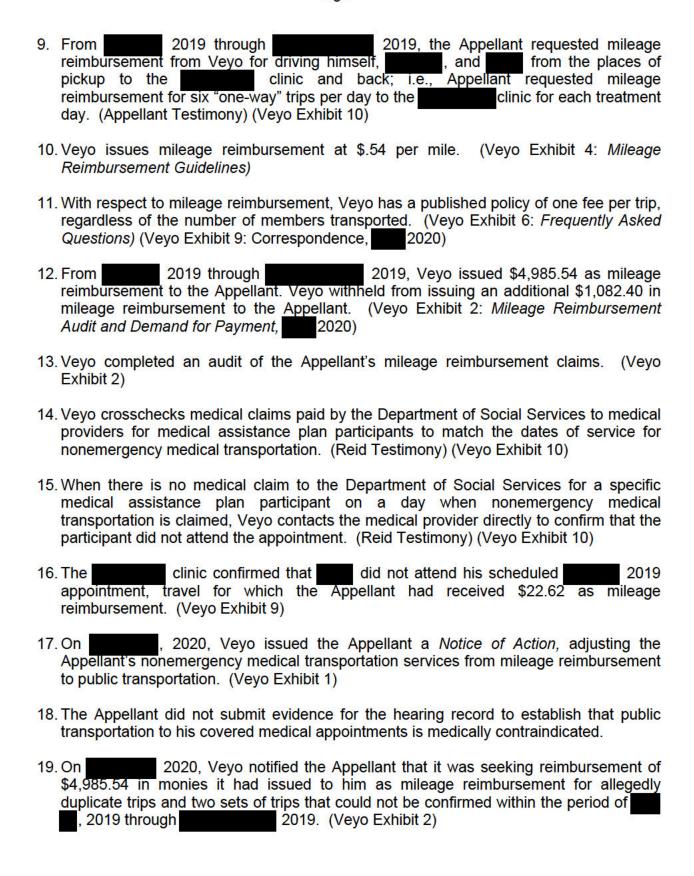


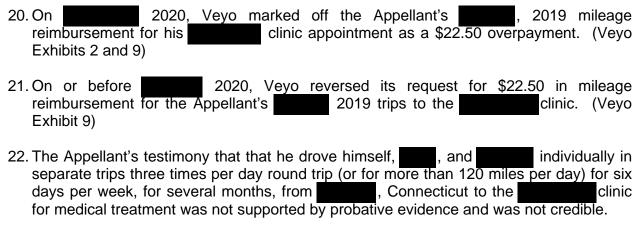
PROCEDURAL BACKGROUND



Appellant
Karen Reid, Veyo, Department's Representative
Shevonne Alexis, Veyo, Department's Representative
Eva Tar, Hearing Officer

The hearing officer extended the close of the hearing record through submission of additional evidence and through record closed on 2020.								
STATEMENT OF ISSUES								
The issues are whether:								
 Veyo's adjustment of the level of the Appellant's nonemergency medical transportation from "mileage reimbursement" to "public transportation" was supported by state statute and regulations. 								
2) Veyo correctly determined that it had issued to the Appellant \$4,985.54 (or \$6.067.94 minus \$1,082.40 in withheld monies) in mileage reimbursement from 2019 through 2019 in error, subjecting the Appellant to recoupment proceedings.								
The Appellant alleges that the monies were not issued in error and seeks Veyo's release of the withheld \$1,082.40 in mileage reimbursement.								
FINDINGS OF FACT								
 The Appellant is a participant in the State of Connecticut's medical assistance plan. (Veyo Exhibit 1: Notice of Action, 2020) 								
2. The Appellant and his two friends, ("") and (""), received treatment at a several days per week when a clinic closer to them was closed for renovations. (Appellant Testimony)								
3. The Appellant regularly drove and to the (Appellant Testimony)								
4. The Appellant resides at (Appellant Testimony)								
5. Solution is place of pickup for the ride to the address. (Veyo Exhibit 10: Spreadsheet)								
6. Appellant's address. (Veyo Exhibit 10)								
7. The distance between the Appellant's, clinic is more than 20 miles. (Appellant Testimony)(Veyo Exhibit 10)								
8. The Appellant submitted his mileage forms to staff at the Veyo on each trip. (Appellant Testimony)								





23. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, provides:

The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60, ..., provided the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension, or when the commissioner documents an administrative or other extenuating circumstance beyond the commissioner's control. Such decision shall be based upon all the evidence introduced before the commissioner or the commissioner's designated hearing officer and all pertinent provisions of law, regulations and departmental policy, and shall supersede the decision made without a hearing. ... Failure by the commissioner or the commissioner's designated hearing officer to render a final decision within the time limits set forth in this subsection shall not of itself be deemed an approval of the aggrieved person's requested relief on the merits.

Conn. Gen. Stat. § 17b-61 (a).

ORDER, (Commissioner Deidre S. Gifford, 4/13/20) provides in part: "Section 17b-61(a)'s timeframe for the commissioner or commissioner's designated hearing officer to render a final decision is extended from 90 to 'not later than 120 days' after the date the commissioner receives a request for a fair hearing pursuant to Section 17b-60...."

On 2020, the OLCRAH received the Appellant's hearing request. This hearing decision would have become due with the extended deadlines on 2020. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides in part that the Department of Social Services is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"By enrolling in the Medicaid program or participating in the competitively bid contract for nonemergency transportation services, providers of nonemergency transportation services agree to offer to recipients of medical assistance all types or levels of transportation services for which they are licensed or certified...." Conn. Gen. Stat. § 17b-276 (a).

The Department of Social Services had the authority to contract with Veyo to be its medical transportation administrator for nonemergency medical transportation to covered services under the State of Connecticut's medical assistance program.

 "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.

Section 17b-259b (a) of the Connecticut General Statutes provides the definitions for "medically necessary" and "medical necessity" with respect to the State of Connecticut's medical assistance program:

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 peerreviewed 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 (a) (emphasis added).

"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).

"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).

Veyo, as the medical transportation contractor of the Department of Social Services, had the authority to determine what type of transportation was most appropriate for the Appellant to travel to his covered medical appointments.

Mileage reimbursement is primarily for the convenience of the Appellant to use his personal vehicle to travel to his covered medical appointments.

Mileage reimbursement for the Appellant to use his personal vehicle to travel to his covered medical appointments is not a medically necessary form of travel to those appointments as the term "medically necessary" is defined at Conn. Gen. Stat. § 17b-259b.

Veyo's adjustment of the level of the Appellant's nonemergency medical transportation from "mileage reimbursement" to "public transportation" was supported by state statute and regulations.

 "Payment for medical transportation services is available for all Medicaid eligible recipients subject to the conditions and limitations which apply to these services." Conn. Agencies Regs. §17-134-33 (d).

"Transportation may be paid only for trips to or from a medical provider for the purpose of obtaining medical services covered by Medicaid...." Conn. Agencies Regs. § 17-134d-33 (e)(1)(C).

The A	Appellant	<u>t was not elig</u> ible to	receive	mileage re	eimbur:	sement for t	transporti	ing
	to the	clinic	on	2019,	as	did not	attend t	hat
appo	intment.			100				

4. "Private transportation is transportation by a vehicle owned by a recipient or by a friend, relative, acquaintance or other individual, provided the vehicle is not licensed for commercial carriage. Individual does not mean communities, companies, corporations, societies or associations." Conn. Agencies Regs. §17-134-33(b)(30).

As	the	App	ellant	used	his	persor	al v	ehicle/	to	transport	himself,		and
		to	the			clinic	for	treatm	ent	from	201	19 thi	rough
, 2019, this method of transportation is "private transportation," as													
the	term	ı is d	efined	at Co	nn. A	Agencie	s Re	gs. §1	7-13	4-33(b)(30).		

5. "The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the ... medical assistance program...." Conn. Gen. Stat. § 17b-80 (a).

As the medical transportation contractor of the Department of Social Services, Veyo had the authority to review and complete an audit of the Appellant's utilization of mileage reimbursement.

6. "Reimbursement for all private transportation will be made only if the recipient documents a visit to a medical provider for a needed service...." Conn. Agencies Regs. § 17-134-33 (f)(2)(E).

With respect to private transportation, "[p]ayment shall be made based on the mileage from the recipient's home to the medical provider." Conn. Agencies Regs. § 17-134-33 (i)(9)(J).

With respect to private transportation, "[p]ayment may be made at the per mile fee established by the Department, but only if the total payment exceeds \$1.00." Conn. Agencies Regs. § 17-134-33 (i)(8)(E).

As the distance between the Appellant's home and the clinic exceeded 20 miles, the total payment would have exceeded \$1.00 per trip, based on Veyo's payment rate of \$0.54 per mile for private transportation.

7. "If a beneficiary of assistance under the ..., medical assistance program, ... receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action" Conn. Gen. Stat. § 17b-88.

The Appellant did not establish by a preponderance of the evidence that the travel to and from the clinic in his vehicle from 2019 through 2019 were rides with either no passengers or a single passenger in his vehicle for six individual one-way trips per treatment day rather than two shared trips per treatment day.

Veyo's issuance of \$4,963.04—or \$6.067.94 minus \$1,082.40 in withheld monies, minus the \$22.50 reversal as documented in the mileage reimbursement to the Appellant in the relevant period was in error, as it was issued based on the premise that the Appellant's transportation of himself, and to and from the clinic were not shared rides.

Veyo may initiate recoupment proceedings against the Appellant for \$4,963.04 in overissued mileage reimbursement.

DISCUSSION

With respect to the first issue, the Appellant has not established that that mileage reimbursement is medically necessary as a means of transportation to his covered medical appointments—as "medically necessary" is defined at Conn. Gen. Stat. § 17b-259b (a)—and is not primarily for his convenience. The Appellant also has not established that public transportation is medically contraindicated for him as a means of travel to his covered medical appointments. Veyo's assignment of public transportation as the Appellant's means of traveling to his nonemergency medical appointments does not conflict with state statutes and regulations.

With respect to the second issue, for the period from 2019, Veyo claims that five hundred and thirty-four (534) of the trips for which the Appellant requested mileage reimbursement are "duplicate trips" where the Appellant, and shared the ride to and from the clinic in the Appellant's vehicle. By sharing the ride to the common destination, the Appellant would have made only two "oneway" trips, and not the six "one-way trips" he had claimed mileage reimbursement for on each of the treatment days in the relevant period.

The Appellant's testimony that he drove from Connecticut to the clinic roundtrip three times per day (a total of more than 120 miles of driving per day), five or six days per week, for several months in an empty car or only with a single passenger was not credible, taking into account on the driving distance to the common medical provider, two of the three patients sharing a common pickup location (the driver's home), and the relatively short intervals between appointments. The Appellant's testimony was self-serving and was unsupported by probative evidence.

From a review of the hearing record, it is reasonable to conclude that the Appellant, and shared many, if not all these trips to this common medical provider. Veyo's published policy of paying a single fee for a trip, irrespective of the number of passengers on the trip, is supported by regulation.

Veyo may recover \$4,963.04 that it issued to the Appellant as overpaid mileage reimbursement. This amount is the difference between the initial amount of mileage reimbursement claimed by the Appellant (\$6,067.94) for the relevant period and the amount withheld by Veyo (\$1,082.40) and minus a \$22.50 reversal.

DECISION

<u>With respect to the first issue</u>, the Appellant's appeal is DENIED. Veyo's assignment of "public transportation" as to the Appellant's nonemergency medical transportation is upheld.

With respect to the second issue, the Appellant's appeal is DENIED, with the caveat that the Appellant is subject to recoupment procedures for \$4,963.04, and not the \$4,985.54 initially claimed by Veyo.

<u> Tar-electronic signature</u> Eva Tar

Hearing Officer

Pc: Karen Reid, Veyo

Shevonne Alexis, Veyo Hunter Griendling, Veyo Mark Fenaughty, Veyo

Theresa Rugens, DSS-Central Office

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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.