

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**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2020, Veyo, the Department of Social Services' medical transportation contractor, issued ██████████ (the "Appellant") a *Notice of Action* changing his nonemergency medical transportation services from mileage reimbursement to public transportation.

Also on ██████████ 2020, Veyo notified the Appellant that it was seeking to recoup mileage reimbursement issued to the Appellant as to five hundred and thirty-four (534) alleged duplicate trips and four other trips.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's ██████████ 2020 postmarked hearing request.

On ██████████ 2020, the OLCRAH scheduled the administrative hearing for ██████████ 2020.

On ██████████ 2020, 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 participated:

██████████ 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 [REDACTED] 2020 for the submission of additional evidence and through [REDACTED], 2020 for comment. The hearing record closed on [REDACTED] 2020.

### **STATEMENT OF ISSUES**

The issues are whether:

- 1) 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 [REDACTED] 2019 through [REDACTED] 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**

1. The Appellant is a participant in the State of Connecticut's medical assistance plan. (Veyo Exhibit 1: *Notice of Action*, [REDACTED] 2020)
2. The Appellant and his two friends, [REDACTED] ("[REDACTED]") and [REDACTED] ("[REDACTED]"), received treatment at a [REDACTED], Connecticut clinic (the "[REDACTED] clinic") several days per week when a clinic closer to them was closed for renovations. (Appellant Testimony)
3. The Appellant regularly drove [REDACTED] and [REDACTED] to the [REDACTED] clinic for treatment. (Appellant Testimony)
4. The Appellant resides at [REDACTED] Connecticut. (Appellant Testimony)
5. [REDACTED]'s place of pickup for the ride to the [REDACTED] clinic was the Appellant's address. (Veyo Exhibit 10: Spreadsheet)
6. [REDACTED]'s place of pickup for the ride to the [REDACTED] clinic was in the same town as the Appellant's address. (Veyo Exhibit 10)
7. The distance between the Appellant's, [REDACTED]'s, and [REDACTED]'s place of pickup and the [REDACTED] clinic is more than 20 miles. (Appellant Testimony)(Veyo Exhibit 10)
8. The Appellant submitted his mileage forms to staff at the [REDACTED] clinic to forward to Veyo on each trip. (Appellant Testimony)

9. From [REDACTED] 2019 through [REDACTED] 2019, the Appellant requested mileage reimbursement from Veyo for driving himself, [REDACTED], and [REDACTED] from the places of pickup to the [REDACTED] clinic and back; i.e., Appellant requested mileage reimbursement for six "one-way" trips per day to the [REDACTED] clinic for each treatment day. (Appellant Testimony) (Veyo Exhibit 10)
10. Veyo issues mileage reimbursement at \$.54 per mile. (Veyo Exhibit 4: *Mileage Reimbursement Guidelines*)
11. With respect to mileage reimbursement, Veyo has a published policy of one fee per trip, regardless of the number of members transported. (Veyo Exhibit 6: *Frequently Asked Questions*) (Veyo Exhibit 9: Correspondence, [REDACTED] 2020)
12. From [REDACTED] 2019 through [REDACTED] 2019, Veyo issued \$4,985.54 as mileage reimbursement to the Appellant. Veyo withheld from issuing an additional \$1,082.40 in mileage reimbursement to the Appellant. (Veyo Exhibit 2: *Mileage Reimbursement Audit and Demand for Payment*, [REDACTED] 2020)
13. Veyo completed an audit of the Appellant's mileage reimbursement claims. (Veyo Exhibit 2)
14. Veyo crosschecks medical claims paid by the Department of Social Services to medical providers for medical assistance plan participants to match the dates of service for nonemergency medical transportation. (Reid Testimony) (Veyo Exhibit 10)
15. When there is no medical claim to the Department of Social Services for a specific medical assistance plan participant on a day when nonemergency medical transportation is claimed, Veyo contacts the medical provider directly to confirm that the participant did not attend the appointment. (Reid Testimony) (Veyo Exhibit 10)
16. The [REDACTED] clinic confirmed that [REDACTED] did not attend his scheduled [REDACTED] 2019 appointment, travel for which the Appellant had received \$22.62 as mileage reimbursement. (Veyo Exhibit 9)
17. On [REDACTED], 2020, Veyo issued the Appellant a *Notice of Action*, adjusting the Appellant's nonemergency medical transportation services from mileage reimbursement to public transportation. (Veyo Exhibit 1)
18. The Appellant did not submit evidence for the hearing record to establish that public transportation to his covered medical appointments is medically contraindicated.
19. On [REDACTED] 2020, Veyo notified the Appellant that it was seeking reimbursement of \$4,985.54 in monies it had issued to him as mileage reimbursement for allegedly duplicate trips and two sets of trips that could not be confirmed within the period of [REDACTED], 2019 through [REDACTED] 2019. (Veyo Exhibit 2)

20. On [REDACTED] 2020, Veyo marked off the Appellant's [REDACTED], 2019 mileage reimbursement for his [REDACTED] clinic appointment as a \$22.50 overpayment. (Veyo Exhibits 2 and 9)
21. On or before [REDACTED] 2020, Veyo reversed its request for \$22.50 in mileage reimbursement for the Appellant's [REDACTED] 2019 trips to the [REDACTED] clinic. (Veyo Exhibit 9)
22. The Appellant's testimony that that he drove himself, [REDACTED], and [REDACTED] individually in separate trips three times per day round trip (or for more than 120 miles per day) for six days per week, for several months, from [REDACTED], Connecticut to the [REDACTED] clinic for medical treatment was not supported by probative evidence and was not credible.
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 [REDACTED] 2020, the OLCRAH received the Appellant's hearing request. This hearing decision would have become due with the extended deadlines on [REDACTED] 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.**

2. “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 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 (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.**

3. “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 Appellant was not eligible to receive mileage reimbursement for transporting [REDACTED] to the [REDACTED] clinic on [REDACTED] 2019, as [REDACTED] did not attend that appointment.**

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 Appellant used his personal vehicle to transport himself, [REDACTED] and [REDACTED] to the [REDACTED] clinic for treatment from [REDACTED] 2019 through [REDACTED], 2019, this method of transportation is “private transportation,” as the term is defined at Conn. Agencies Regs. §17-134-33(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 [REDACTED] 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 [REDACTED] clinic in his vehicle from [REDACTED] 2019 through [REDACTED] 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 [REDACTED], 2020 correspondence—in 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, [REDACTED] and [REDACTED] to and from the [REDACTED] 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 [REDACTED], 2019 through [REDACTED], 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, [REDACTED], and [REDACTED] shared the ride to and from the [REDACTED] clinic in the Appellant’s vehicle. By sharing the ride to the common destination, the Appellant would have made only two “one-way” 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 [REDACTED] Connecticut to the [REDACTED] 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, [REDACTED] and [REDACTED] 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**

With respect to the first issue, 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.

*Eva Tar-electronic signature*  
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 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.