

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: 155674

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████ ██████ 2020, Veyo, Inc. (“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.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received an ██████████ 2020 postmarked hearing request, signed by ██████████ the Appellant’s sister and attorney-in-fact.

On ██████████, 2020, the OLCRAH scheduled the administrative hearing for ██████████ 2020. The OLCRAH granted the Appellant’s request for a postponement to ██████████ 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 Appellant’s attorney-in-fact represented the Appellant’s interests at the administrative hearing, as the Appellant was unable to participate. The following individuals participated by telephone conferencing:

██████████, Appellant’s Representative (sister and attorney-in-fact)
██████████, Counsel for the Appellant’s Representative
Karen Reid, Veyo’s Representative
Chivonne Alexis, Veyo’s Representative
Eva Tar, Hearing Officer

The hearing record closed on ██████████, 2020.

STATEMENT OF ISSUE

The issue is whether Veyo's ██████ 2020 adjustment of the Appellant's nonemergency medical transportation to the level of "public transportation" was supported by state statute and regulations.

FINDINGS OF FACT

1. The Appellant is a participant in the State of Connecticut's medical assistance plan. (Veyo Exhibit 1)
2. The Appellant is elderly and visually impaired; he has limited mobility. (Appellant's Representative Testimony)
3. The Appellant's sister drives the Appellant to his medical appointments in her personal vehicle. (Appellant's Representative Testimony)
4. To participate in Veyo's mileage reimbursement program, Veyo requires that participating drivers be registered with Veyo and comply with Veyo's requirements for the timely submission of accurate mileage reimbursement forms. (Veyo Exhibit 4)
5. Subsequent to an internal audit, Veyo and the Appellant's sister are engaged in a billing dispute as to the sister's mileage reimbursement as a driver registered with Veyo. (Veyo Exhibit 2) (Appellant's Exhibits A through F)
6. On ██████ 2020, Veyo notified the Appellant's sister that it will no longer accept her submissions for mileage reimbursement. (Veyo Exhibit 2) (Hearing Request)
7. On ██████ 2020, Veyo issued the Appellant a *Notice of Action* changing the level of his nonemergency medical transportation services from mileage reimbursement to "public transportation." (Department Exhibit 1)
8. On ██████, 2020, Veyo readjusted the level of the Appellant's nonemergency medical transportation from public transportation to "livery service (Cab)" through ██████ 2021. (Veyo Exhibit 3)
9. The designation of livery transportation permits the Appellant to have a companion – either a family member or friend – accompany him on his trips to medical appointments. The Appellant's sister may accompany him on these trips. (Reid Testimony)
10. Veyo is willing to pay a driver other than the Appellant's sister mileage reimbursement to transport the Appellant to his medical appointments. (Reid Testimony)
11. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, provides the deadline for the rendering of a hearing decision.

Executive Order 7M, Section 3, dated March 25, 2020, extends the period for rendering a hearing decision. Executive Order 7DDD, Section 2, dated June 29, 2020 in part authorizes a further extension to the time frames provided by Executive Order 7M, Section 3, dated March 25, 2020 that would have lapsed on June 28, 2020.

ORDER, (Commissioner Deidre S. Gifford, 4/13/2020) 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. The OLCRAH granted the Appellant’s request for a postponement of the initial [REDACTED] 2020 hearing date to [REDACTED] 2020, thereby extending the due date of the final decision by an additional 27 days to [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.

“The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

The Fair Hearing official determines the issue of the hearing. UPM § 1570.25 C.2.c.

2. “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 has 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.

3. “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).

“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. §17-134d-33 (d).

“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, has the authority to determine what type of transportation was most appropriate for the Appellant to use to travel to his covered medical appointments.

4. “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.

As the Department of Social Services’ medical transportation contractor, Veyo has the authority to complete an audit of the claims for mileage reimbursement by drivers registered to participate in that program.

Veyo is within its authority to disqualify a driver from its mileage reimbursement program.

5. “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.

It is reasonable to conclude that the Appellant’s impaired vision coupled with his limited mobility adversely affects his ability to independently and safely navigate public transportation to travel to his medical appointments.

Veyo’s ██████ 2020 adjustment of the Appellant’s nonemergency medical transportation to the level of “public transportation” was not supported by state statute and regulations.

DISCUSSION

Veyo’s ██████ 2020 adjustment of the Appellant’s level of transportation to “public transportation” is overturned. The Appellant’s impaired vision coupled with his limited mobility limits or prohibits his ability to independently and safely navigate public transportation to travel to his medical appointments.

However, it must be recognized that Veyo and the Appellant's sister have been in an adversarial billing dispute over mileage reimbursement payments, the means of nonemergency medical transportation that the Appellant used prior to Veyo's [REDACTED] 2020 action.

Veyo has notified the Appellant's sister that it would no longer honor her submissions for mileage reimbursement payments to transport the Appellant to his medical providers, disenrolling the Appellant's sister as a registered driver from its mileage reimbursement program. This action is a discrete action by Veyo that is not subject to appeal through this administrative hearing process.

At the [REDACTED] 2020 administrative hearing, Veyo's Representatives acknowledged that the company had no objection to providing mileage reimbursement to a driver other than the Appellant's sister. The Appellant must designate a driver who is acceptable to Veyo so that the new driver may receive mileage reimbursement for transporting the Appellant to the Appellant's medical appointments.

Until the Appellant designates a driver acceptable to Veyo, Veyo should continue the Appellant's current level of medical transportation at the level of "livery service (Cab)," as it has done so during the pendency of this hearing. This level of service permits the Appellant's sister, should she wish to do so, to accompany the Appellant as a companion on the livery rides to and from his medical appointments.

DECISION

The Appellant's appeal is **GRANTED in part**.

ORDER

1. Veyo is instructed to continue the Appellant's current nonemergency medical transportation at the level of "livery service (Cab)" until the Appellant designates a driver acceptable to Veyo, or through [REDACTED] 2021, whichever occurs first.
2. Within 21 calendar days of this decision, or [REDACTED] 2020, documentation of compliance with this order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Pc: [REDACTED]
[REDACTED]
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.