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**STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
OFFICE OF HEARINGS AND APPEALS**

In the Matter of)
)
 [REDACTED]) OHA Case No. 10-FH-2143
)
 Claimant.) Div. Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) is a Medicaid recipient. On March 15, 2010, he requested the Medicaid program reimburse him for costs incurred for his travel to and from Anchorage in the first part of March 2010. (Ex. D, pp. 3 – 8) His request was made to the Division of Public Assistance. *Id.*¹ The Division of Public Assistance apparently denied his request, because the Claimant requested a fair hearing on April 6, 2010.² (Ex. C)

This office has jurisdiction pursuant to 7 AAC 49.010.

The hearing was scheduled for May 27, 2010. Before the hearing, the Division of Health Care Services (Division) moved that this case be dismissed, arguing that the Claimant had never requested travel reimbursement. That motion was denied given that the record demonstrated he requested travel reimbursement by filing his request with the Division of Public Assistance on March 15, 2010. (Ex. D, pp. 3 – 8)

The hearing proceeded as scheduled on May 27, 2010. The Claimant appeared telephonically. He represented himself and testified on his own behalf. [REDACTED], a Medical Assistance Administrator III employed with the Division, appeared in person. She represented the Division and testified on its behalf. [REDACTED], a Medical Assistance Administrator II employed with the Division, appeared in person and testified on behalf of the Division.

¹ The Claimant's hearing testimony established that he went to the Homer Public Assistance office, and he was routed through a number of persons, who did not know where to refer him or how to handle his request.

² The record does not contain a copy of the denial notice.

During the hearing, the Division renewed its motion to dismiss this case. The motion was made based on the fact that the Division of Health Care Services, as distinguished from the Division of Public Assistance, had not processed nor denied the Claimant's request for travel expense reimbursement. The motion was denied because this Office's jurisdiction includes cases where it is alleged that claims for assistance were not acted upon in a timely manner. *See* 7 AAC 49.020(2).

The Division was directed to process the Claimant's request for travel expense reimbursement. On June 4, 2010, this Office then received a copy of an undated letter, from the Division to the Claimant, denying his request for travel expense reimbursement. (Ex. H) The Claimant was given the option of either reopening the hearing to address the Division's denial, or responding in writing to the Division's denial. The Claimant opted to respond in writing. (Ex. 3, pp. 1 – 3)

ISSUE

Was the Division correct to deny the Claimant's request that Medicaid reimburse him for his costs incurred in traveling to and from Anchorage in February and March 2010?

SUMMARY OF DECISION

The Claimant is not eligible to be reimbursed for his travel costs to and from Anchorage in February and March 2010 because he is not enrolled with the Medicaid program as a transportation provider. As a result, the Division was correct to deny his request for reimbursement.

FINDINGS OF FACT

The following facts were established by a preponderance of the evidence:

1. The Claimant is a Medicaid recipient who lives in [REDACTED]. (Ex. D, p. 2)
2. On or about February 16, 2010, the Claimant experienced a medical emergency involving a detached retina, where he was in danger of going blind. (Claimant testimony) His eye doctor instructed him to go to Anchorage immediately because the [REDACTED] health care facilities could not take care of the problem. *Id.* The Claimant does not fly. *Id.* He borrowed his landlady's car and he immediately drove to Anchorage. *Id.* He was operated on at Alaska Regional Hospital. *Id.* He incurred \$115.71 in gasoline costs for this trip, including the return to [REDACTED]. (Ex. 2)
3. On or about March 2, 2010, the Claimant's retina detached again and he was in danger of going blind. (Claimant testimony) He was again instructed to go to Anchorage immediately by his eye doctor. *Id.* Because the Claimant does not fly, he again borrowed his landlady's car and drove to Anchorage. He was admitted to Alaska Regional Hospital, where he was treated on March 4, 2010 and released on March 5, 2010.

(██████ testimony) The Claimant incurred a total of \$132.13 in expenses on this trip (\$23.79 food; \$108.34 gasoline). (Ex. H, p. 1; Ex. D, p. 8)

4. The Claimant made a request, date stamped as received by the Division of Public Assistance on March 15, 2010, for reimbursement for his two trips to and from Anchorage. (Ex. D, pp. 4 – 8) That request contained the receipts for his March trip. (Ex. D, p. 8) The request did not contain the receipts for his February trip. *Id.* The Claimant stated the total costs for his two trips to Anchorage were \$240.47, a figure that was slightly less than the actual total of \$247.84. (Ex. 2; Ex D, pp. 6, 8)

5. The Claimant’s expenses were charged on his landlady’s credit card, on which he is an authorized signer. (Claimant testimony; Ex. D, p. 6)

6. The Claimant requested a fair hearing on the issue of his travel expense reimbursement on April 6, 2010. (Ex. C)

7. The hearing was held on May 27, 2010. As directed at that hearing, the Division issued a formal written denial on or about June 4, 2010. (Ex. H, pp. 1 – 2) The Division’s written denial stated that it could not reimburse the Claimant for his travel costs for the following reasons:

- a. A travel expense claim may only be submitted by a provider enrolled with Medicaid, which the Claimant is not;
- b. Travel expense payments may only be made to providers enrolled with Medicaid, which the Claimant is not.

(Ex. H, p. 1)

PRINCIPLES OF LAW

This case involves the denial of an application for benefits. When an application is denied, the applicant has the burden of proof³ by a preponderance of the evidence.⁴

The Medicaid program pays for transportation services for Medicaid recipients when the transportation is “provided to assist the recipient in receiving medically necessary services” and “authorized by the department.” 7 AAC 120.405(a)(1) and (2). The

³ “Ordinarily the party seeking a change in the status quo has the burden of proof.” *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985)

⁴ Preponderance of the evidence is the normal standard of proof in an administrative proceeding. *Amerada Hess Pipeline v. Alaska Public Utilities Comm’n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). Preponderance of the evidence is defined as “[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.” Black’s Law Dictionary 1064 (5th Ed. 1979)

Medicaid “recipient’s health care provider shall request prior authorization for medically necessary transportation and accommodations” by making the request “to the department.” 7 AAC 120.410(b). The Division must approve non-emergency medical transportation before the travel occurs. 7 AAC 120.410(a).

The Medicaid program will pay for travel that is not preapproved in the case of a medical emergency. 7 AAC 120.415. “[E]mergency transportation’ means the transportation necessary immediately when a sudden, unexpected occurrence creates a medical emergency.” 7 AAC 120.490(2).

In order to be paid for transportation services, the transportation provider must be “enroll[ed] with the department as a provider of transportation or accommodation services in accordance with 7 AAC 105.210.” 7 AAC 120.400(1). The department will only pay a Medicaid enrolled provider. 7 AAC 145.005(a)(1).

ANALYSIS

The issue in this case is whether Division was correct when it denied the Claimant’s request that Medicaid reimburse him for the travel expenses he incurred in mid February and early March 2010.

The Division did not dispute the medical necessity for the travel or argue that the Claimant should have had the travel preauthorized. Nor did the Division argue that the Claimant’s costs were excessive or unreasonable. The entire reason behind the Division’s denial of the Claimant’s request is that the Medicaid regulations only allow the Division to pay Medicaid enrolled providers for transportation services.

The Division’s position is well taken. There is no dispute that the Claimant is not enrolled with Medicaid as a transportation provider, as required by 7 AAC 120.400(1). The Medicaid transportation regulations do not allow for Medicaid recipients to be reimbursed for travel costs that they incur by themselves, only for transportation services provided by enrolled Medicaid providers. *See* 7 AAC 120.400 – 490. Because the Claimant is not enrolled with the Medicaid program as a transportation provider, the Medicaid regulations do not allow the Medicaid program to reimburse him for his transportation costs.

In summary, the Division’s action in denying the Claimant’s request for reimbursement of his travel costs to and from Anchorage in February and March 2010 was correct.

CONCLUSIONS OF LAW

1. The Claimant is not eligible to be reimbursed for his travel costs to and from Anchorage in February and March 2010 because he is not enrolled with the Medicaid program as a transportation provider.

2. The Division was therefore correct when it denied the Claimant's request for reimbursement of his travel costs to and from Anchorage in February and March 2010.

DECISION

The Division was correct to deny the Claimant's request that Medicaid reimburse him for his costs incurred in traveling to and from Anchorage in February and March 2010.

APPEAL RIGHTS

If for any reason the Claimant is not satisfied with this decision, the Claimant has the right to appeal by requesting a review by the Director. To do this, send a written request directly to:

Kimberli Poppe-Smart
Division of Health Care Services
4501 Business Park Blvd., Suite 24
Anchorage, AK 99503-7167

If the Claimant appeals, the request must be sent within 15 days from the date of receipt of this Decision. Filing an appeal with the Director could result in the reversal of this Decision.

DATED this 26th day of July, 2010.

/Signed/
Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 26th day of July, 2010,
true and correct copies of the foregoing were sent to:

Claimant via USPS First Class Certified Mail, Return Receipt Requested.

And to the following by email:

[REDACTED], Hearing Representative
[REDACTED], Director
[REDACTED], Policy & Program Development
[REDACTED], Policy & Program Development
[REDACTED], Staff Development & Training

J. Albert Levitre, Jr. Law Office Assistant I