

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	
E Q	)	OAH No. 18-0161-MDX
<hr style="width: 45%; margin-left: 0;"/>	)	Agency No.

**DECISION**

**I. Introduction**

E Q lives in City A. He cannot drive long distances. He saw a doctor in Anchorage for removal of a kidney stone. His doctor requested travel vouchers for Mr. Q so Mr. Q could get to Anchorage for a follow-up appointment. The Division of Health Care Services (Division) denied the vouchers, arguing that the appointment was not medically necessary, and that the services Mr. Q sought were available in the City A/City B area.

Mr. Q established that the services were medically necessary, and not available through his health care provider in City A. The Division's denial of the request for ground transportation to and from Anchorage is reversed.

**II. Facts**

E Q had a kidney stone. He had been seeing Dr. John Smith, a physician at No Name Clinic in the City A area. Dr. Smith recommended surgery to remove one of Mr. Q's kidneys. Mr. Q asked whether his condition could be managed by removing the stone and putting in a stent, rather than removing the whole kidney, but Dr. Smith maintained that the kidney should be removed. Mr. Q was not satisfied with that recommendation. He called Medicaid for help finding a different provider, and Medicaid gave him Dr. John Doe's name. Mr. Q sought a second opinion from Dr. Doe in Anchorage. Dr. Doe offered a different, less invasive surgical option than Dr. Smith, and Mr. Q chose that option (removal of the kidney stone rather than removal of the kidney). Mr. Q got a ride to Anchorage with a friend for the procedure.

For Mr. Q's follow-up appointment in Anchorage with Dr. Doe in February 2018, Mr. Q's friend was not available to drive. Mr. Q himself is blind in his right eye and unable to drive after dark. He drives only short distances and is not able to drive himself to

Anchorage.<sup>1</sup> So, Dr. Doe’s office applied to the Division for travel vouchers for Mr. Q’s transportation from City A to Anchorage for the follow-up appointment.<sup>2</sup>

The Division sent Mr. Q a notice denying the request for travel to Anchorage. The Division gave two reasons. First, it stated that nephrology services are available in City A, where Mr. Q lives. Second, the Division stated that the provider requested travel to Anchorage for a second opinion but did not submit documentation to support the medical necessity of a second opinion, so the Division concluded that the service Mr. Q sought in Anchorage was not medically necessary.<sup>3</sup>

A telephonic hearing was held on March 7, 2018. Mr. Q represented himself. Laura Baldwin represented the Division.

### **III. Discussion**

#### ***A. Medical Necessity of the Visit***

The Division explained in the notice of denial that it could not approve travel to Mr. Q’s follow-up appointment in Anchorage because he did not have a referral to the Anchorage physician for a second opinion, and therefore did not establish the medical necessity for the second opinion.<sup>4</sup> However, Mr. Q’s uncontested testimony at the hearing was that the travel to Anchorage was not for a second opinion, but for a follow-up appointment with the provider who had performed the kidney stone procedure on Mr. Q. At the hearing, the Division did not dispute Mr. Q’s testimony that the appointment was for a follow-up visit, nor did the Division argue that the visit with Dr. Doe itself would not be paid for -- undermining the Division’s theory that the visit was not medically necessary. Based on the testimony at the hearing, it is more likely than not that the visit to Dr. Doe for follow up was medically necessary, and therefore permitted under 7 AAC 120.405(a)(1).

#### ***B. Transportation Vouchers***

The Division also argued that it could not approve travel to Mr. Q’s follow-up appointment in Anchorage because nephrology services were available in the City A/City B area.<sup>5</sup> However, Mr. Q had already chosen to work with Dr. Doe, not Dr. Smith, because Dr. Doe offered a procedure that Dr. Smith did not offer. The Division based its decision on the

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<sup>1</sup> Q testimony.

<sup>2</sup> Exh. F at 1 - 2.

<sup>3</sup> Exh. D at 1.

<sup>4</sup> Exh. D.

<sup>5</sup> Baldwin testimony.

availability of nephrology services generally in City A/City B, rather than the availability of the specific procedure Mr. Q had chosen – specifically, a follow up to the procedure performed by Dr. Doe and paid for by Medicaid. Furthermore, the Division apparently based its conclusion that the service was available on a note from a nurse at Dr. Smith’s office saying “[w]e have these services in the No Name Area (No Name Clinic).”<sup>6</sup> At the hearing, the Division did not contest Mr. Q’s assertion that the specific procedure he underwent (removal of the kidney stone) was not available from Dr. Smith or his associates in City A, nor did the Division argue that follow up to a procedure performed by an Anchorage physician could or should be performed by a provider in the City A/City B area. Mr. Q met his burden under 7 AAC 120.405(b)(1) of showing that there was not a provider in City A/City B who could provide the same service, particularly given that this was a follow-up with the doctor who had performed Mr. Q’s procedure for removal of the kidney stone.

Mr. Q’s case finds support in the Alaska Medicaid Recipient Handbook, which provides that “Alaska Medicaid may provide coverage for local ground transportation for a Medicaid recipient, ... to travel to/from a medical appointment if the transportation request is made by the medical provider and if certain other criteria are met, including medical necessity of the appointment, and unavailability of other means of transportation. Please contact your provider if you need ground transportation in order to get to your appointment and allow enough time for the provider’s office to mail you the transportation voucher.”<sup>7</sup> The request in this case was made by Mr. Q’s provider, Dr. Doe.<sup>8</sup> The appointment was medically necessary, as discussed above. Mr. Q testified persuasively that he did not have other transportation available.

#### **IV. Conclusion**

The Division’s denial of Mr. Q’s request for travel vouchers for round-trip ground transportation from City A to Anchorage is reversed.

Dated: March 29, 2018.

*Signed*  
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Andrew M. Lebo  
Administrative Law Judge

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<sup>6</sup> Exh. F at 4.

<sup>7</sup> Alaska Medicaid Recipient Handbook, prepared by Conduent State Healthcare LLC 11/02/2017, at p. 20, available at <http://dhss.alaska.gov/dhcs/Pages/default.aspx> under “Useful Links.”

<sup>8</sup> Exh. F.

## Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 13th day of April, 2018.

By: *Signed* \_\_\_\_\_  
Name: Andrew M. Lebo  
Title: Administrative Law Judge/OAH

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]