

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

In the Matter of)
)
 E N)
_____)

OAH No. 16-0926-MDS

DECISION

I. Introduction

E N receives Personal Care Attendant (PCA) services from the Medicaid program. Ms. N’s mother fell gravely ill after surgery in Arizona. Ms. N and her PCA left Alaska for Arizona without requesting prior approval for her to receive Medicaid funded PCA services outside her home community. The Division of Senior and Disabilities Services (Division) denied Ms. N approval for her out of town PCA services because she did not request approval before leaving Alaska. Ms. N requested a hearing to challenge the denial.

Ms. N’s hearing was held on September 14, 2016. Ms. N represented herself, with the assistance of B C, her Medicaid Care Coordinator. Victoria Cobo, a Medical Assistance Administrator with the Division, represented the Division.

Ms. N made the decision to leave Alaska to help care for her mother on an emergency basis. However, Ms. N was required to request approval from the Division before her travel in order for the Medicaid program to pay her PCA for services provided to her outside her home community. The Division’s decision denying authorization is affirmed.

II. Facts

The following facts were established by a preponderance of the evidence.¹

Ms. N is an Alaskan Medicaid recipient with a PCA. Ms. N holds her elderly mother’s power-of-attorney. Her mother lives in Arizona. She had surgery, developed a severe infection post-surgery, and needed someone to make medical decisions for her. Ms. N found out about the severity of her mother’s condition after 5:00 p.m. on July 13, 2016. She had not planned to travel to Arizona because she dislikes flying. However, because of her mother’s severe condition, she decided to travel immediately. Because of her own health conditions, Ms. N’s PCA had to accompany her.

¹ Unless otherwise stated, the facts are derived from Ms. N’s testimony, the testimony of K D, Ms. N’s son and PCA, and the testimony of Melissa Meade, a Health Program Manager with the Division.

The PCA agency which employs Ms. N's PCA was closed after 5:00 p.m., when Ms. N found out she needed to travel. Ms. N and her PCA traveled to Arizona on a 2 a.m. flight from Anchorage on July 14, 2016.² Ms. N contacted her PCA agency on July 14, 2016, which submitted a PCA travel services request, unsigned by Ms. N, that same day. That request was not complete until Ms. N signed the request on July 18, 2016.³

The Division denied Ms. N's request for PCA services outside her home community, because it was not requested before the travel started.⁴ Ms. N, as of her September 14 hearing, was still in Arizona, and her PCA, who is her son, was also still with her. Her PCA is continuing to provide Ms. N with services. However, he is not getting paid for those services due to the Division's denial, and it is causing him severe financial hardship. Neither Ms. N nor her PCA knew about the preapproval requirements for out of town PCA services.

III. Discussion

The Alaska Medicaid program normally will not pay for PCA services provided to a recipient outside of the city where the recipient lives. Regardless, it "will pay for a recipient's approved [PCA] services for up to 30 days annually while the recipient is away from the recipient's municipality of residence, unless additional time is required based on documented medical necessity or for education not available in this state."⁵ There is a requirement, however, that the PCA services must be authorized before the travel outside the home community begins.⁶ The same regulation, 7 AAC 125.050, which provides for PCA services while the recipient is outside his or her city of residence, does not contain an exception for emergency travel.⁷

The facts show that Ms. N was faced with an untenable situation. Her own health conditions require her to have a PCA. She had a family emergency which required immediate travel to Arizona, at a time of day where her PCA's employing agency, was not able to request travel authorization for her PCA services. As a result, the travel authorization request was not made until after Ms. N and her PCA left Anchorage for Arizona. Because the Medicaid regulations require authorization, before travel begins, for PCA services provided outside the

² See Ms. N's boarding pass, a copy of which is contained in the record.

³ Ex. D, p. 4.

⁴ Ex. D, pp. 1 – 2.

⁵ 7 AAC 125.050(c).

⁶ 7 AAC 125.050(c)(1).

⁷ The Alaska Medicaid regulations used to contain an undue hardship exception provision. However, that regulation, 7 AAC 43.080(a), was repealed in 2004 (Register 170).

recipient's city of residence, and that authorization was not requested until after the travel was begun, Ms. N cannot receive Medicaid funded PCA services for her stay in Arizona.

IV. Conclusion

The Division's decision to deny Ms. N's request for PCA services during her stay in Arizona is upheld.

DATED this 6th day of October, 2016.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from of 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 21st day of October, 2016.

By: *Signed* _____
Name: Douglas Jones
Title: Medicaid Program Integrity Manager

[This document has been modified to conform to the technical standards for publication.]