

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

IN THE MATTER OF:)	
)	OAH No. 12-0407-MDS
N V)	Agency No.
_____)	

DECISION

I. Introduction

On September 11, 2012, L V, N V's mother, appealed the denial of Medicaid travel expenses by Xerox State Healthcare, LLC (Xerox), designee of the Department of Health and Social Services, Division of Health Care Services (division).

The hearing was held on October 2, 2012, but the record remained open until October 9, 2012, so that the parties would be allowed to submit additional documentary evidence. Ms. V appeared by telephone. Gerry Johnson represented the division by telephone. The hearing was recorded.

Based on the record as a whole and after due deliberation, the decision denying the request for Medicaid travel benefits for N V and his escort is reversed.

II. Facts

N V, age 3, and his brother, B V, age 2, both required surgery on their teeth in August 2012.¹ They were scheduled for surgery and their travel, along with that of their parents, was preauthorized by the division.² It was the family's first time traveling at Medicaid program expense. The family flew from No Name to No Name, and on to Anchorage, on August 1st. Each one-way ticket cost \$507.35, for a total of \$2,029.40.³ The boys had medical appointments and their surgeries on August 2nd and 3rd, and the family was scheduled to return by air to No Name early on the morning of August 4th.

The V family's flight was scheduled to leave Anchorage at 6:40 a.m. on the morning of August 4th. They arose at 5 a.m. and Ms. V called a cab to take them to the airport. However,

¹ Except where indicated by a citation to a document in the record, the facts are taken from Ms. V's hearing testimony.

² See Exh. E at pg. 1; Exh. F at pg. 1. Ms. V was N's escort and the children's father, H T, escorted B.

³ \$507.35 x 4 = \$2,029.40.

the cab did not pick them up until 6 a.m. and by the time they arrived at the airport, they had missed their plane.

On August 5, 2012, Ms. V attempted to obtain preauthorization for Medicaid travel services so the family could go home, but her request was denied.⁴ Ms. V and her family had to remain in Anchorage for close to a week before they were able to secure funding for their trip back home. They stayed with relatives and borrowed money for the return flight. On August 10, 2012, Ms. V's village corporation purchased four tickets for her family to fly from Anchorage back to No Name. The No Name Corporation paid \$1,294 for the tickets, and charged them 10% as a service charge (\$129.40), so the total amount Ms. V borrowed from No Name is \$1,423.40.⁵ Ms. V had to repay this amount to the village corporation.

The family's tickets from No Name back to No Name were purchased by their relatives. Ms. V's mother paid for three of the tickets and Mr. T's mother paid for one ticket. According to Ms. V, she does not have to reimburse the grandmothers for the family's tickets from No Name to No Name.

Because the return tickets that had already been preauthorized were not used by the V family on August 4th, the Medicaid program was not billed for the tickets, has not had to pay for them, and has not incurred any expense for the Vs' missed flight that day.

III. Discussion

The issue in this case is whether Ms. V's request for Medicaid travel benefits from Anchorage to No Name was correctly denied.⁶ Ms. V has the burden of proving by a preponderance of the evidence that her request should have been approved.⁷

Medicaid was established in 1965 to provide medical assistance to certain needy individuals and families.⁸ It is a cooperative federal-state program that is jointly financed with federal and state funds.⁹ In Alaska, the Department of Health and Social Services (department) administers the Medicaid program in accordance with applicable federal and state laws and regulations.

⁴ Exh. D at pg. 1.

⁵ Document entitled "Purchase Agreement" received from Ms. V on October 3, 2012.

⁶ Although this appeal involves only the denial of travel benefits for Ms. V and N, travel benefits for B and H T were also denied. The parties agreed to combine both cases and have this decision apply to both.

⁷ 2 AAC 64.290(e).

⁸ 42 USC § 1396 *et. seq.*

⁹ Wilder v. Virginia Hospital Association, 496 U.S. 498, 501, 110 S.Ct. 2510, 110 L.Ed.2d 455 (1990).

Medicaid pays for recipient travel, so long as, among other things, the services are “provided to assist the recipient in receiving medically necessary services” and “those services are not available in the recipient’s community”¹⁰ Nonemergency transportation services must be preauthorized “before the time that the service is provided.”¹¹ Some nonemergency travel is allowed without preauthorization, but only for changes in authorized travel plans that are beyond the recipient’s control, such as a flight cancellation because of weather; or for the recipient to receive additional medical services that were not originally contemplated in his or her treatment plan.¹²

In this case, Medicaid authorized travel for Ms. V, her two boys and their father, from No Name to Anchorage, and back, so that the children could have dental surgery. The first half of their trip was completed as planned, but when they missed their plane on the morning of August 4th, their request to be preauthorized for the return trip home was denied. The letter explaining the reasons for the denial states in part:

You and your escort were late for check in and missed your return flight. The request to extend your travel another day without medical need is denied. The requested extension of travel is excessive or inappropriate for the distance traveled or is inconsistent with the medical needs of the recipient.^[13]

The definitions section of the Medicaid travel services regulations do not define the term “excessive,” nor do they define the phrases “inappropriate for the distance traveled” or “inconsistent with the medical needs of the recipient.”¹⁴

The preauthorization request for Medicaid travel services that Ms. V made after she and her family missed their plane on August 4th was for travel that had already been preauthorized by Medicaid. The travel Ms. V requested was not “excessive” or “inappropriate for the distance traveled” because it was not a trip that was to be made in *addition* to the flight that was missed, but rather in place of it. It was merely the second half of a round trip from the family’s home in No Name to Anchorage and back. The Medicaid program had already contemplated the family’s

¹⁰ 7 AAC 120.405(a)(1) & 7 AAC 120.405(b)(1).

¹¹ 7 AAC 120.410(a).

¹² 7 AAC 120.410(d).

¹³ Exh. D at pg. 1.

¹⁴ See 7 AAC 120.490. Former regulation 7 AAC 43.860(p) contained a definition of the phrase “medically necessary and appropriate,” but it was repealed in 2010. In any event, it primarily addressed whether a *treatment* was “medically necessary,” so it may not have been very helpful here.

travel back to No Name and it was for the specific purpose of returning Ms. V's family home to the point from which the trip originated after the boys' medical treatment was completed. Moreover, it is difficult to imagine how this travel could have been "inconsistent with the medical needs of the recipient," when the denial left the family in Anchorage without sufficient resources to get home on their own. They had to resort to the largesse of family members and borrow from their village corporation to get tickets home.

It is important to the result in this case that the Medicaid travel services program did not have to pay for the preauthorized seats that the V family did not use on August 4th. Had the program already paid for those tickets, and was being asked to pay for *more* tickets to get them back to No Name, this analysis may have been significantly different. But in this case, where there was no additional expense involved, Ms. V's request for the Medicaid program to preauthorize her family's return travel to No Name after they missed their plane on August 4th should have been approved. It should also be noted that Ms. V did not unilaterally book return travel to No Name after missing the August 4 flight, but instead went through the proper procedure to request prior authorization for her return flight.

IV. Conclusion

Ms. V met her burden of proving by a preponderance of the evidence that her request for Medicaid travel benefits from Anchorage to No Name after the family missed its plane on August 4, 2012, was incorrectly denied. The division should reimburse Ms. V \$1,423.40, the total amount of her loan from the No Name Corporation.

DATED this 19th day of November, 2012.

Signed

Kay L. Howard
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 28th day of November, 2012.

By: Signed
Name: Kay L. Howard
Title: Administrative Law Judge

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