

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

In the Matter of)

Q O)
_____)

OAH No. 15-0409-MDX
Agency No.

DECISION

I. Introduction

The issue in this case is whether the Division of Health Care Services (Division) was correct to deny Q O's request for prior authorization of, or reimbursement for, certain air travel which was undertaken after Ms. O missed her originally scheduled return flight. The air travel at issue was for non-emergency travel. The preponderance of the evidence shows that the Division's denial was appropriate because Ms. O's decision to reschedule her return flight to another day was based on circumstances within her control.

II. Facts

Ms. O lives in No Name, Alaska. Ms. O has used Medicaid-funded travel for herself and her cat prior to the trip at issue here, and in the past, has asked for and received extensions on her stays in order to facilitate consolidating her medical appointments and reduce the number of times she has to fly back and forth from her home. Ms. O also has difficulty flying at night due to anxiety and sleep issues. In the past, she has succeeded in having her flights scheduled during the day by providing the Division with medical documentation of these issues.¹

Ms. O was scheduled to fly home from her travel for medical visits on the morning of March 19, 2015. Ms. O missed her flight and requested that her return be rescheduled. The Division informed her that a rescheduled flight would be authorized if she would take the next available flight that evening. Ms. O declined to fly back that evening and later requested an additional extension in order to stay and take advantage of a medical appointment that had opened up within the next few days. Ms. O offered to arrange for lodging with a friend. The Division denied this request. Ms. O stayed and arranged her own travel back by using airline miles that a friend gave her.²

¹ Ms. O's hearing testimony.

² Exhibit D & Recording of Hearing

On March 25, 2015, the Division issued a letter to Ms. O formally denying her request for authorization of travel date changes / request for reimbursement.³

Ms. O requested a hearing to contest the Division's decision.⁴ Ms. O's hearing was held on June 2, 2015. Ms. O participated in the hearing by telephone, represented herself, and testified on her own behalf. Angela Ybarra participated in the hearing by telephone and represented the Division. The hearing was concluded, and the record closed at the end of the hearing.

At the hearing, Ms. O explained that she was scheduled on a flight to return from her medical appointment, but missed her flight because her sleep was disturbed as result of an intoxicated person being arrested outside her hotel room. Ms. O then called the Division and asked to have her flight rescheduled. The Division was willing to reschedule her flight, but informed her that only her return on the next available flight, which was that night, would be authorized. Ms. O explained that she was unwilling to travel at night and had letters from her providers that she sends in with her travel requests that give reasons that she should not travel at night. Ms. O explained that she has anxiety. Ms. O has sleep issues, and travels with her cat, which make it difficult and stressful to fly at night.

After the Division refused her request to reschedule her return flight to the next day, Ms. O learned that one of her providers agreed to see her earlier if she could stay in No Name a few more days. Ms. O then made a request to the Division to change her return to accommodate this change, but this request was also denied. Ms. O was frustrated because in her view this change would have saved the state money because she was willing to cover expenses by staying with a friend and avoided putting the state to the additional expense of sending her back for this medical visit.⁵

Based on the evidence in the record, I find that it is more likely than not that Ms. O's failure to return on March 19, 2015, was not due to circumstances beyond her control, and she did not receive prior authorization for her rescheduled return flight paid for with a friend's airline miles.

III. Discussion

The Alaska state Medicaid regulations governing medical transportation and accommodation services are located primarily at 7 AAC 120.400 - 7 AAC 120.490. 7 AAC 105.130, titled "Services Requiring Prior Authorization," provides in relevant part as follows:

³ Ex. D.

⁴ Ex. C.

⁵ Recording of Hearing.

(a) Except as otherwise provided in 7 AAC 105 - 7 AAC 160, the department will not pay for the following services unless the department has given prior authorization for the service:

(1) nonemergency, medically necessary transportation and accommodation services

. . . .

(b) Except as provided in 7 AAC 140.320, failure to obtain the required prior authorization may result in nonpayment, regardless of the eligibility of the recipient or the appropriateness of the services.

(c) For prior authorization, factors that the department will consider include the service's medical necessity, clinical effectiveness, cost-effectiveness, and likelihood of adverse effects, as well as service-specific requirements in 7 AAC 105 - 7 AAC 160

In the notice of denial, the Division quoted from 7 AAC 120.405, which provides in relevant part as follows:

(c) The department will not pay for (1) transportation or accommodations that the department determines to be excessive or inappropriate for the distance traveled or inconsistent with the medical needs of the recipient

The notice also contained a quote from 7 AAC 120.410 states in relevant part as follows:

(d) The department will pay for nonemergency transportation and accommodation services provided without prior authorization if (1) a recipient is forced to change authorized travel plans for reasons beyond the recipient's control, including the cancellation of an airline flight due to weather conditions or the closing of an airport for security reasons; or

The Division argued that Ms. O's travel change / reimbursement request was correctly denied under 7 AAC 120.405(c)(1). That regulation requires the department to deny preauthorization or reimbursement for transportation that is excessive or inappropriate for the distance traveled or inconsistent with the medical needs of the recipient. The Division's position was that appropriate return travel was authorized for the morning flight, which she missed. Then an alternative flight home was authorized for that evening, which Ms. O declined to take advantage of.

At hearing, the Division also argued that denial was supported by 7 AAC 120.410(d) as well as by 7 AAC 120.405(c)(1). This regulation limits the department's obligation to reimburse for nonemergency transportation services provided without prior authorization to certain specified situations, such as where "a recipient is forced to change authorized travel plans for reasons beyond the recipient's control." The Division argued that Ms. O's decision not to accept the offer of same-day travel home after she missed her flight was not due to circumstances beyond her control.

The evidence in the record shows that Ms. O believed that she was justified in rearranging her return travel to avoid a night flight and to avoid having to fly home and back again for another medical appointment. It is understandable that Ms. O became frustrated when she tried makes changes to her travel arrangements for medical appointments that she believed would both benefit herself and save money for the Division.

However, the regulations governing reimbursement for travel, do not allow a Medicaid recipient to reschedule non-emergency travel when they believe it is justified without prior approval when circumstances beyond the recipient's control do not require the change that the recipient is requesting. In this case, the circumstances beyond Ms. O's control did not prevent her from accepting the Division's offer of a same-day return flight. Although such a return would have been inconvenient and stressful, Ms. O did not show that she could not go on that flight. This was a flight home, not to another city.

Because Ms. O chose not to fly home that night due to circumstances that were within her control, she was required to get prior approval for the change to stay until after her new medical appointment in order to qualify for reimbursement. Ms. O did not get prior approval and is therefore not entitled to reimbursement.

Furthermore, Ms. O did not explain how she would be entitled to reimbursement for travel that she did not pay for.

IV. Conclusion

The Division's denial was appropriate because Ms. O's need to reschedule to another day was not based on circumstances within her control and she did not receive prior authorization for her changes to her return travel. The Division's decision is therefore affirmed.

Dated this 9th day of June 2015.

Signed

Mark T. Handley
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 16th day of June, 2015.

By: Signed
Name: Jared C. Kosin, J.D., M.B.A.
Title: Executive Director
Agency: Office of Rate Review, DHSS