

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

In the Matter of)	
)	
N Q)	OAH No. 16-0672-MDX
<hr style="width:45%; margin-left:0"/>)	Agency No.

DECISION

I. Introduction

N Q receives Medicaid benefits. She was on a preauthorized trip for a medical appointment and missed her flight home. She requested an extension of the travel authorization to allow for a flight home on a different day. The Division of Health Care Services denied the request. Ms. Q appeals.

Under the existing precedent established by published decisions of the Department of Health and Social Services, however, Ms. Q’s return flight is compensable. The division’s denial of reimbursement is reversed.

II. Facts

Ms. Q lives in No Name. Her provider requested and received preauthorization for Ms. Q to travel to No Name for a health care appointment on Thursday April 21, 2016, returning on Saturday, April 23, 2016. She was scheduled to fly home from No Name to No Name on Saturday morning at 9:30 a.m.¹ The parties disagree about whether Ms. Q was given a written itinerary. Ms. Q called Wright Air, the carrier that serves No Name, on Friday. Wright Air told her to check in by 1:00 p.m. on Saturday for her flight. Ms. Q arrived at the airport at 12:30 p.m. on Saturday, and learned that she had missed her flight, which departed as scheduled at 9 a.m.²

Ms. Q contacted N T, the health aide at the No Name health clinic. On Sunday, April 24, 2016, an extension was requested, and the request was denied.³ Ms. Q booked a new return flight home, and the ticket was paid for by Ms. T (not Ms. T’s employer). Ms. Q wants to repay Ms. T for the price of the ticket.⁴

The division mailed an adverse action letter to Ms. Q on May 5, 2016, formally denying the request for travel authorization.⁵ The letter stated that the requested travel was

¹ Gagne at hearing.
² Testimony of Q.
³ Exhibit E at 8.
⁴ Testimony of Q.
⁵ Exhibit D.

excessive or inappropriate for the distance traveled, or was inconsistent with Ms. Q's medical need.⁶ The letter also asserted that the request was denied because the change in travel was not caused by circumstances outside of Ms. Q's control.⁷

Ms. Q appealed the denial.⁸ A telephonic hearing was held on July 19, 2016. Ms. Q represented herself. Division Hearing Representative Terri Gagne represented the division. The record was held open until August 4, 2016 to allow Ms. Q time to review the agency record since she had not yet received it at the time of the hearing.

III. Discussion

In addition to paying for certain compensable medical expenses, under appropriate circumstances, Medicaid will pay costs for travel to a medical appointment, including transportation and accommodation services.⁹ The regulations, however, impose strict requirements on what Medicaid will pay. For example, Medicaid requires prior authorization for nonemergency transportation services. There are two exceptions.

(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

(2) the medical service for which the recipient traveled reveals the need for additional services, screening, or treatment that requires the recipient to stay longer than previously approved.¹⁰

The division argues that under this regulation Ms. Q's late return travel to No Name is not compensable. Although Ms. Q had prior authorization for a return ticket, the prior authorization was for a specific date and time: Saturday, April 23, 2016 at 9:00 a.m. In the division's view, if a flight is missed the return ticket is forfeited. So, in the division's view, once Ms. Q missed her flight the prior authorization became null and void. Because Ms. Q was not forced by circumstances beyond her control or by a need for additional medical service to change her travel plans, under the regulation, her travel is not compensable.

⁶ *Id.*

⁷ *Id.*

⁸ Exhibit C.

⁹ See, e.g., 7 AAC 120.405.

¹⁰ 7 AAC 120.410(d).

In Ms. Q's view, however, the reason she missed her flight was that the airline gave the incorrect check-in time. Ms. Q stresses that she is not asking for compensation for any cost other than the return flight, which had already been preauthorized. Ms. Q's argument that the airline is to blame for the misunderstanding may be valid, but it does not establish that the airline's error was a circumstance beyond her control. She demonstrated that she is competent and capable of checking on flight schedules and making sure that she is where she needs to be. The airline's error is unfortunate. However, with a little more care taken by the recipient to be aware of the time of the flight, she would have been able to catch the Saturday morning flight. Therefore, the error is not comparable to a flight cancellation or airport closure. For those types of events, no amount of care could change the outcome.

Ms. Q's argument that the return flight was preauthorized, however, is governed by two prior cases issued by the Department. In *In re E.U.V. et al*, a Medicaid recipient missed a return flight back to the village after a medical procedure in a large city. In discussing whether a later return flight was compensable, the Department observed:

A return flight to [the recipient's village] was not excessive or inappropriate for the distance, nor inconsistent with medical needs. Return travel by air *had already been preauthorized by Medicaid*. It was merely the second half of a round trip from the family's home in [the village] to [the city] and back.¹¹

A similar fact pattern, with a similar result, arose in *In re N.V.* In that case, a family missed its flight back to the village after the two children had received medical care in Anchorage. Medicaid refused to pay for the return trip. In discussing whether the family's return trip was preauthorized and compensable, the Department stated:

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 [the village] to Anchorage and back. The Medicaid program had already contemplated the family's travel back to [the village] 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'

¹¹ OAH No. 12-0793-MDS (Dep't Health and Soc. Servs. 2013) (emphasis in original; footnote omitted), available at <http://aws.state.ak.us/officeofadminhearings/Documents/MDS/TA/MDS120793.pdf>.

medical treatment was completed.¹²

As in this case, the appellant in *In re N.V.* did not seek reimbursement for any additional food or lodging expenses resulting from the delayed return. In both of these cases, the Department determined that the cost of the return trip flight was preauthorized and compensable.

In re N.V. stressed that the holding was limited to circumstances where the cost for the new flight did not exceed the cost of the original flight.¹³ This is consistent with the language in 7 AAC 120.405(c)(1), because the division, in preauthorizing the original flight, has already determined that this amount is not “excessive or inappropriate for the distance traveled or inconsistent with the medical needs of the recipient.”

In the absence of a compelling reason to do otherwise, this decision will follow existing precedent. Here, the interpretation of the regulation given by *E.U.V.* and *N.V.* is consistent with the text of the regulation. Nothing in the regulation states that a return ticket is forfeited if a person inadvertently misses the originally scheduled flight.¹⁴ Therefore, in the circumstances of this case, Ms. Q’s return trip is compensable, up to the amount of the original ticket.

Like the holding in *In re N.V.*, this holding is narrow. It applies only when a person who inadvertently misses a flight takes the next available flight. In other circumstances, the extended time, and hence the return trip, might no longer have a medical purpose. It only applies to the cost of the original ticket.¹⁵ Any additional cost, which would include a change fee or accommodation services, would not be preauthorized. Under the existing precedent, however, Ms. Q is entitled to reimbursement for her return flight in an amount not to exceed the cost of her original return ticket to No Name.

IV. Conclusion

The division’s denial of travel reimbursement for Ms. Q’s April 25, 2016, return trip to No Name is reversed. The division will reimburse Ms. Q up to the cost of the originally authorized April 23, 2016 return travel.

Dated: August 5, 2016.

Signed
Kathryn L. Kurtz
Administrative Law Judge

¹² OAH No. 12-0407-MDS at 3-4 (Dep’t Health and Soc. Servs. 2012), available at <http://aws.state.ak.us/officeofadminhearings/Documents/MDS/TA/MDS120407.pdf>.

¹³ *Id.* at 4.

¹⁴ Under this interpretation, additional costs that were not preauthorized would be paid only if the cause of the additional cost was outside the control of the recipient.

¹⁵ It is important to note that according to the division, the ticket in this case was refundable, and the division would have been reimbursed for the unused portion.

Adoption

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

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of August, 2016.

By: Signed
Signature
Kathryn Kurtz
Name
Administrative Law Judge
Title

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