

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

In the Matter of)

H X)

OAH No. 17-0083-MDX

Agency No.

DECISION

I. Introduction

The issue in this case is whether the Division of Health Care Services was correct to deny H X’s air travel prior authorization, which was requested after Mr. X was removed from his originally-scheduled flight. The Division denied Mr. X’s authorization because Medicaid already approved and paid for a flight based on the same medical service need.

The evidence indicates that the travel was appropriate and medically necessary, but Mr. X’s need to reschedule it was based on circumstances within his control. Accordingly, the Division’s denial was appropriate and is affirmed.

II. Facts

Mr. X lives in No Name, Alaska. He has a number of health issues, including Hepatitis C. Mr. X is also recovering from arm surgery. His health care provider requested prior authorization for Mr. X to travel to Anchorage for arm surgery follow-up on December 15 – 17, 2016.¹ Mr. X testified that he asked his provider to request an escort. However, his provider did not request an escort for Mr. X.² Medicaid approved the travel for “follow up; L distal radius malunion takedown w/allograft and internal fixation.”³ Medicaid purchased a nonrefundable ticket for Mr. X and authorized taxi, food and hotel vouchers.⁴

Mr. X suffered from insomnia in the week leading up to the travel. On the day of travel, Mr. X decided he needed to sleep. He ingested two different types of prescribed pain medication for the flight. Mr. X slept through the flight’s stop in No Name B. When the plane landed in No Name C, he awoke confused. Mr. X, under the effects of medication, tried to hug a young woman next to him, mistakenly believing she was a close friend. The young woman’s escort reported this to airline staff. Mr. X has little to no memory of these events.

¹ Ex. E5-E8.

² Ex. E6-7.

³ Ex. E5-E8.

⁴ Ex. E11-12; Pokorney testimony.

Airline employees removed Mr. X from the flight in No Name C. Transportation Security Administration employees and the No Name C police questioned Mr. X. Mr. X did not complete his travel to Anchorage. Since then, Mr. X has successfully completed travel for medical reasons without an escort.⁵

On January 3, 2017, Mr. X's provider requested prior authorization for his travel to Anchorage for the same medical reason – follow-up to arm surgery, “left distal radius/malunion take down with allograft.”⁶ The Division denied the travel authorization.⁷ The denial stated, “You were authorized to travel to Anchorage in December. You did not complete that travel because you were removed from your flight for inappropriate behavior. Alaska Medicaid met its obligation for your medical travel on PA#0000000000 from 12/15/15 to 12/17/16.”⁸

Mr. X requested a hearing on January 23, 2017 to contest the Division's decision.⁹ His telephonic hearing was held on February 14, 2017. Mr. X represented himself. Angela Ybarra represented the Division's position. Maria Pokorney, Medicaid travel program manager, testified on the Division's behalf.

III. Discussion

The issue in this case is whether Mr. X's request for Medicaid travel benefits from No Name to Anchorage was properly denied. Mr. X has the burden of proving by a preponderance of the evidence that his request should have been approved.¹⁰

The department may place minimum or maximum quantities on a service before the recipient receives the requested service to maintain the financial integrity of the department and the Medicaid program.¹¹ 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”¹² Nonemergency transportation services must be preauthorized “before the time that the service is provided.”¹³ 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

⁵ X testimony. Facility X (Facility X) arranged and covered these travel expenses.

⁶ Ex. E1-2.

⁷ Ex. D.

⁸ Ex. D.

⁹ Ex. C.

¹⁰ 2 AAC 64.290(e).

¹¹ 7 AAC 105.130(c).

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

¹³ 7 AAC 120.410(a).

the recipient to receive additional medical services that were not originally contemplated in his or her treatment plan.¹⁴

Mr. X did not need to reschedule travel for a weather delay or mechanical issue. He needed to reschedule travel because his actions caused TSA to remove him from an airplane. Mr. X argues that Alaska Airlines should have known he was under medical travel, and guarded other passengers from potential issues. He argues that Alaska Airlines should not have seated a vulnerable young woman next to him. He asserts that Medicaid should have provided him with an escort. His arguments are not persuasive.

Mr. X's behavior may have been triggered by his exhaustion and use of prescribed medications, yet these actions were within his control. Mr. X testified that he used the last of his pain medication on the plane. Accordingly, one can infer that Mr. X is familiar with the effects of the pain medication, which would be compounded by lack of sleep. Mr. X now understands the potential effects of pain medication usage and no longer takes them before flights.

Under the facts of this case, Medicaid is not required to provide duplicate flight authorization and payment when a recipient's actions prevent travel.¹⁵ Mr. X's testimony that Facility X has provided travel for medical care since the incident provides additional support for the travel denial. This is not a case where the denial poses a health risk for Mr. X. It appears he has still been able to access care.

However, this does not mean that Medicaid may deny future travel requests that contain follow-up care for his arm surgery. Mr. X testified credibly that he scheduled a number of medical appointments for a single trip to Anchorage in March, including an appointment for Hepatitis C care. His provider had not yet submitted this travel request. Division staff testified that although each travel authorization is looked at individually, travel associated with Mr. X's arm might be denied. If other medically necessary services are included in the travel request, the Division should not deny travel based solely on the inclusion of arm care as a basis for the trip.

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¹⁴ 7 AAC 120.410(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

¹⁵ If the tickets were refundable, the outcome of this case may have been different.

IV. Conclusion

The Division approved and paid for Mr. X’s travel to Anchorage for follow-up to arm surgery. He was unable to complete the travel for reasons within his control. The Division's decision is therefore affirmed.

Dated this 21st day of February, 2017.

Signed _____
Bride Seifert
Administrative Law Judge

Adoption

The undersigned 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 15th day of March, 2017.

By: *Signed* _____
Signature
Kathryn Kurtz _____
Name
Administrative Law Judge _____
Title

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