



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████ ██████████
██████████ ██████████
██

DECISION

MGE/156974

PRELIMINARY RECITALS

Pursuant to a petition filed April 12, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on May 15, 2014, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to his choice of transportation for medical appointments.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████████ ██████████
██████████ ██████████
██

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Danielle Dale

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Eau Claire County.
2. The petitioner has received rides from Eau Claire to the ██████████ ██████████ in Tomah and Milwaukee from volunteer drivers provided by MTM. MTM now refuses to provide rides to him because he allegedly acted inappropriately during previous rides.

3. The Division of Health Care Access and Accountability has offered the petitioner reimbursement for public transportation or mileage costs to drive himself.

DISCUSSION

Those traveling to a medical service covered by medical assistance may receive transportation by a common carrier if the relevant agency approves of the service. Wis. Admin. Code, § DHS 107.23(1)(d)2. A common carrier is any mode of transportation other than an ambulance or specialized medical vehicle approved of by the designated agency. Wis. Admin. Code, § DHS 107.23(1)(d)1. Services solely for the convenience of the recipient are not medically necessary. Wis. Admin. Code, § DHS 101.03(96m)(b)7. The petitioner has received rides from Eau Claire to the [REDACTED] [REDACTED] in Tomah and Milwaukee from volunteer drivers provided by MTM. MTM now refuses to provide rides to him because he allegedly acted inappropriately during previous rides. The Division of Health Care Access and Accountability has offered him reimbursement for public transportation or mileage costs to drive himself.

Nobody with any first-hand knowledge of the situation testified about the petitioner's behavior. Because a finding of fact cannot be based solely on hearsay, if the issue were whether he acted appropriately, he would prevail. But this is not the issue because assistance rules do not guarantee him any particular mode of transportation but rather only that he will be able to attend his medical appointments. It has done this by offering public transportation or mileage reimbursement. This may not be as convenient as a volunteer driver, but medical assistance rules do not allow convenience to be a primary consideration when determining whether a service is necessary.

Moreover, the petitioner refuses ride with female drivers because of his respect for the teachings and advice his company commander in [REDACTED]. His commander told him that one must stop a situation before it occurs. The petitioner contends that every female driver is a potential source of a false sexual assault accusation. He can be as cautious as he wishes, but a volunteer organization simply does not have the resources to cater to each person's desires. Even if his request for a volunteer driver were approved, nothing in the medical assistance rules allows him to pick his driver.

CONCLUSIONS OF LAW

The Division of Health Care Access and Accountability correctly denied the petitioner's request for a volunteer driver because he is not entitled to his choice of a particular mode of transportation.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of June, 2014

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 9, 2014.

Division of Health Care Access and Accountability
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