

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8149

IN THE MATTER OF:

Served July 9, 2004

Investigation of Failure to File )  
Amended Tariff, Directed to: )  
NATIONAL CHILDREN'S CENTER, INC., )  
WMATC No. 189 )

Case No. MP-2004-12

This matter is before the Commission on respondent's application for reconsideration of the suspension of Certificate No. 189 for willful failure to comply with Order No. 7690, served January 23, 2004.

**I. BACKGROUND**

In July of 2003, the District of Columbia Department of Health published notice in the District of Columbia Register that the Department was adopting, on an interim basis, new reimbursement rates for non-emergency transportation services furnished by private sector providers under the District of Columbia Medicaid Program.<sup>1</sup> The interim rates were subsequently made permanent on October 31, 2003.<sup>2</sup>

Respondent was one of a number of carriers that had filed DC Medicaid rates with the Commission prior to July of 2003 but as of January 23, 2004, had not filed a corrected tariff to reflect the new rates.<sup>3</sup> Order No. 7690 gave respondent thirty days to "file an amended tariff specifying current DC Medicaid rates and admit to knowing and willful violation of Article XI, Section 14, of the Compact and Commission Regulation No. 55 by paying a civil forfeiture of \$100." In the alternative, Order No. 7690 gave respondent thirty days to "show cause why an amended tariff need not be filed." Finally, Order No. 7690 cautioned respondent that its certificate of authority would "stand suspended and be subject to revocation without further proceeding" should respondent fail to timely comply.

When respondent failed to timely comply with Order No. 7690, the Commission issued Order No. 7795 on February 25, 2004, noting the suspension of respondent's authority and giving respondent thirty days

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<sup>1</sup> 50 D.C. Reg. 5,351 (July 4, 2003).

<sup>2</sup> 50 D.C. Reg. 9,253 (Oct. 31, 2003).

<sup>3</sup> Article XI, Section 14, of the Compact and Commission Regulation No. 55, require each WMATC carrier to charge only those rates and fares specified in a tariff filed with the Commission and in effect at the time.

to show cause why that authority should not be revoked. On March 31, 2004, respondent filed an amended DC Medicaid tariff and tendered a \$125 money order in payment of the forfeiture and filing fee. The Commission, in turn, issued Order No. 7906 on April 1, 2004, lifting the suspension and terminating the proceeding as to respondent.

## II. APPLICATION FOR RECONSIDERATION

Under Title II of the Compact, Article XIII, Section 4(a), a party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration. The thirty-day statutory deadline is mandatory and may not be waived.<sup>4</sup>

Respondent's executive director explains that he was not personally aware of the orders issued in this proceeding, but the record shows that copies of the orders in this proceeding were served on respondent's director of transportation -- the contact designated in respondent's annual report. Even before this proceeding was opened, the record shows an advisory email was sent to respondent's director of transportation on July 25, 2003, with instructions on how to file an updated tariff. In any event, the final order in this proceeding was issued on April 1, 2004. Respondent's application was not filed until June 24, 2004. Accordingly, the application must be denied.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William H. McGilvery  
Executive Director

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<sup>4</sup> In re Para-Med Med. Transp., Inc., No. MP-02-50, Order No. 7085 (Mar. 10, 2003); In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. MP-95-04, Order No. 4694 (Nov. 9, 1995); In re Atwood's Transport Lines, Inc., No. 389, Order No. 1730 (Aug. 5, 1977) (on reconsideration); In re Atwood's Transport Lines, Inc., No. 258, Order No. 1327 (May 14, 1974) (on reconsideration); In re Washington, Va. & Md. Coach Co., No. 72, Order No. 819 (May 21, 1968) (on reconsideration); In re D.C. Transit Sys., Inc., No. 131, Order No. 705 (Apr. 27, 1967), appeal dismissed per curiam, sub nom., Powell v. WMATC, No. 20,939, order (D.C. Cir. June 1, 1967); In re D.C. Transit Sys., Inc., Order No. 672 (Feb. 7, 1967), aff'd on reconsideration, Order No. 686 (Mar. 13, 1967), aff'd per curiam, No. 20,899, slip op. (D.C. Cir. Jan. 29, 1968).