



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 18, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 10, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the Non-Emergency Medical Transportation Program (NEMT) for a trip taken on February 28, 2007.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the NEMT Program is based on current policy and regulations. Some of these regulations state as follows: Non-Emergency medical transportation (NEMT) is a reimbursement program for recipients of Medicaid and Children with Special Health Care Needs (CSHCS) for the cost of transportation and other expenses associated with receiving medical services (WV Income Maintenance Manual Section 19.3).

The information which was submitted at your hearing revealed that prior authorization was required for the MRI on February 28, 2007 and NEMT cannot be approved for a service which is not covered by the Medicaid Program.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny your application for the Non-Emergency Medical Transportation Program (NEMT) for a trip taken February 28, 2007.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Mary Shoemaker, Dept. Hearing Rep.

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Claimant,

v.

Action Number: 07-BOR-1215

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on May 14, 2007 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on May 10, 2007 on a timely appeal filed April 26, 2007.

It should be noted here that the claimant's benefits have been denied pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Non-Emergency Medical Transportation (NEMT) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Non-Emergency Medical Transportation (NEMT) program provides payment to or on behalf of eligible persons for transportation and other related expenses necessary to secure medical and other services covered by the Medicaid Program.

III. PARTICIPANTS:

1. _____, Claimant.
2. _____, Claimant's wife.
3. Mary Shoemaker, Department Hearing Rep.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department took the correct action to deny the application for NEMT for a trip taken February 28, 2007.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 19.3.
Medicaid Chapter 500, Section 514.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- 1 Copy of Department's hearing summary.
- 2 Copy of case comments (2 pages).
- 3 Copy of NEMT application.
- 4 Copy of notification letter dated 4-17-07.
- 5 Copy of WV Income Maintenance Manual Section 19.3 (12 pages).
6. Copy of e-mails from Brenda Livingston of BMS and copy of BMS Policy 514.3 (4 pages).

Claimants' Exhibits:

- CI-1 Copy of documents from trip made February 28, 2007 (4 pages).

VII. FINDINGS OF FACT:

- 1) The claimant submitted an application form for transportation reimbursement under the Non-Emergency Medical Transportation Program (NEMT) on 2-28-07 for a trip taken to Dublin, Ohio on 2-28-07 (Exhibit #3).
- 2) The application for the NEMT Program was denied with written notification issued on 4-17-07 stating that the medical service obtained was not covered by Medicaid and the trip did not receive pre-authorization (Exhibit #4).
- 3) The Department Hearing Representative testified that the Bureau for Medical Services (BMS) reported that Dr. [REDACTED] in [REDACTED] was not a border facility, that the claimant told her that Dr. [REDACTED] used to be with Children's Hospital which is a border facility but moved 18 miles away, that the claim for the MRI was not approved as prior authorization was not obtained, that a clinic charge was also billed which Medicaid would not cover and the trip to [REDACTED] could not be reimbursed.

- 4) The claimant's wife testified that Dr. [REDACTED] is still part of Children's Hospital, that they have never had to get prior approval for same day trips, and that they believe that it is still in the network.
- 5) The State Hearing Officer, without objection from the claimant, ordered the Department Hearing Representative to obtain an explanation from the Bureau for Medical Services as to why Dr. [REDACTED] was not considered in the network (border facility) since he is still affiliated with Children's Hospital and to provide the policy which states that an MRI must be pre-approved. The Department was allowed five (5) days to provide this information and both parties agreed that the documents would be accepted and the State Hearing Officer could issue the decision without reconvening the hearing to address the new documents. On 5-14-07, the State Hearing Officer received documentation (marked as Exhibit #6) which showed contact between the BMS and the local office in which it was reported that prior authorization was required on an MRI (BMS Policy 514.3) from WV Medical Institute (WVMI) and that prior authorization was not obtained. The issue of whether Dr. [REDACTED] was an in-network or border provider was not addressed in the documentation.
- 6) WV Income Maintenance Manual Section 19.3 states in part:

"A. INTRODUCTION

Non-emergency medical transportation (NEMT) is a reimbursement program for recipients of Medicaid and Children with Special Health Care Needs (CSHCN) for the cost of transportation and other expenses associated with receiving medical services.

Since the program is intended for reimbursement only, payment in advance of a scheduled appointment is not appropriate and cannot be issued from RAPIDS.....

B.5 The Benefit

Services provided under this program include reimbursement for transportation and certain related expenses necessary to secure medical services normally covered by Medicaid.

Reimbursement for transportation and related expenses is available to Medicaid recipients who:

- Require transportation to keep an appointment for medical services covered under the Medicaid coverage for which they were approved;
- Receive scheduled Medicaid-covered services at a clinic, hospital, or doctor's office
- Received pre-authorization as necessary
- Comply with the 60-day application submittal deadline

Reimbursement is also available for applicants for Medicaid who must travel to obtain necessary medical examinations and tests required to determine eligibility.....

M. 2. Transportation Requiring Prior Approval From BMS

All requests for out-of-state transportation and certain related expenses must have prior approval from the Bureau for Medical Services, Case Planning Unit, except for travel to those facilities which have been granted border status and thus are considered in-state providers.”

VIII. CONCLUSIONS OF LAW:

- 1) Regulations from WV Income Maintenance Manual Section 19.3 state that the NEMT Program reimburses applicants for transportation and other expenses incurred in the process of receiving medical services normally covered by Medicaid. The NEMT Program is designed to allow applicants to recoup their transportation expenses. The evidence and testimony show that the MRI obtained by the claimant on the trip to Dr. [REDACTED] office was not approved by Medicaid and therefore not covered by the Medicaid Program.
- 2) Section 514.3 of the BMS Policy Manual states that prior authorization will be required on all outpatient Magnetic Resonance Imaging (MRI) and that prior authorization must be obtained from WV Medical Institute. Since the evidence shows that prior authorization was not obtained and was not approved by the Medicaid Program, the Department was correct to deny the NEMT application as the service was not covered by the Medicaid Program.
- 3) The issue of whether Dr. [REDACTED] is a border or network provider is moot.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the application for the NEMT Program for a trip taken 2-28-07.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of May, 2007.

**Thomas M. Smith
State Hearing Officer**