



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313
(304) 558-4098 ext. 157

Joe Manchin III
Governor

March 9, 2005

Dear Mr. _____;

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 22, 2004. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for certain Non-Emergency Medical Transportation (NEMT) payments.

In arriving at a decision, the State Hearing 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 and benefit levels for Non-Emergency Medical Transportation (NEMT) are determined based on current regulations. One of these regulations specifies that:

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 he was approved;
- Receive scheduled Medicaid-covered services at a clinic, hospital or doctor's office;
- Receive pre-authorization as necessary; and
- Comply with the 60-day application submittal deadline.

(West Virginia Income Maintenance Manual Section 19.3 B (5) *APPLICATION/REDETERMINATION PROCESS - The Benefit*).

The information submitted at the hearing revealed: Trips were denied because they were past the 60 day limit on making the application.

It is the decision of the State Hearing Officer, to uphold the action of the Department to deny reimbursement for the Non Emergency Medical Transportation expenses.

Sincerely,

Ray B. Woods, Jr., M. L. S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Deidra L. Zankowitz, ESW

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: _____

ADDRESS: _____

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 9, 2005 for Mr. _____.

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 scheduled on October 22, 2004 on a timely appeal filed September 1, 2004.

It should be noted here that the _____'s were receiving Medicaid coverage at the time of the hearing.

All persons giving testimony were placed under oath. This issue could not be resolved in a pre-hearing conference.

II. PROGRAM PURPOSE

The program entitled Emergency and Special Assistance Programs, is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

Emergency and Special Assistance Programs is used to assist individuals and families in meeting a financial crisis when they are without available resources. The program is designed to provide short-term emergency financial assistance with which eligible individuals and families may obtain items or services needed to eliminate an emergency or crisis. Those who are in need of qualify for emergency financial assistance may already be participating in an Income Maintenance or Social Service Program.

III. PARTICIPANTS

_____, Claimant

_____, West Virginia Birth to Three

Deidra L. Zankowitz, Economic Services Worker – [REDACTED] District DHHR Office

Presiding at the hearing was, Ray B. Woods, Jr., M. L. S., State Hearing Officer and, a member of the State Board of Review.

IV. QUESTION(S) TO BE DECIDED

Did Mrs. _____ meet the eligibility criteria for payment of Non-Emergency Medical Transportation (NEMT) expenses?

V. APPLICABLE POLICY

West Virginia Income Maintenance Manual Section 19.3 B (5)
APPLICATION/REDETERMINATION PROCESS - The Benefit.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 OFS-NEMT-1 dated 06/16/04
- D-2 Case Comments 07/22/04; 07/27/04 & 08/13/04
- D-3 WVIMM Chapter 19.3 (B)(5)
- D-4 Denial Notice dated 07/23/04
- D-5 Hearing Summary
- D-6 Scheduling Notice dated 09/01/04

VII. FINDINGS OF FACT

- Ms. Zankowitz submitted the following Hearing Summary:

On June 16, 2004 an NEMT application was received in the _____ County DHHR Office for _____. _____ was the transportation provider. This application included requests for medical transportation reimbursement for trips made over 60 days from the date the application was received. I denied the NEMT payments requested for March 8, 16, and 31, 2004 and April 7, 2004.

As policy states in the Income Maintenance Manual, Chapter 19.3,B,5 and on the OFS-NEMT-1 the application must be received within 60 days of the trip or the application will be denied.

A request was made for a hearing on 7-27-04. I called and spoke with _____ on 8-13-04 and completed a pre-hearing conference. I also mailed a copy of the policy regarding the time frame that an NEMT must be received for approval to be made. At the pre-hearing phone conference, _____ stated that the NEMT form was submitted to the Right from the Start Program timely, and they were to turn it in here. However the Program failed to get it to the office within the 60 day time frame. I explained that I still have to go by policy and the denial could not be reversed. At that time Mrs. _____ requested a fair hearing regarding the decision.

- According to Exhibit D-1, Mr. _____ signed the NEMT Application for the March 8, 2004 trip on March 8, 2004. The trips taken on March 16th, 31st, April 7th were signed by Mr. _____ on June 10, 2004.
- The Case Comments, (Exhibit D-2), indicates Ms. Zankowitz denied the NEMT Application based on the 60 day time limit.

- Ms. Zankowitz referred to Case Comments written by another Case Worker. "The Clients requested a pre-hearing conference." The "Hearsay Rule" was explained to Mr. _____. Mr. _____ did not object to use of the statement.
- The Department issued a Denial Letter dated July 23, 2004. The letter had another Case Worker's name on the letter. According to Ms. Zankowitz, there are three (3) Workers in her Unit who work on the NEMT Applications. Although another Worker's name appears on the letter, Ms. Zankowitz issued the letter.
- Ms. _____ worked with Mr. and Mrs. _____ prior to her departure from WV Birth to Three Agency. Another employee inherited the case and there may have been some communications problems. Mrs. _____ is from Africa and speaks French. The _____'s were under the impression that WV Birth to Three would submit the forms after being signed. Ms. _____ had assisted the _____'s when she was the Service Coordinator.
- According to Mr. _____, the new Service Coordinator returned the NEMT Application and indicated they required a signature. The _____'s were under the impression that the Worker would return and pick up the forms as promised. Mr. _____ worked out of state and had to take care of family business whenever he returned home. His wife was caring for a very sick child requiring around the clock attention. Mr. _____ requested an exception to the policy.

VIII. CONCLUSIONS OF LAW

West Virginia Income Maintenance Manual Section 19.3 B (5) APPLICATION/REDETERMINATION PROCESS - The Benefit states,

Services provided under this program include reimbursement for transportation and certain related expenses necessary to secure medical services normally covered by Medicaid. Funding for this program is provided by three different sources:

- Title XIX funds for all Medicaid recipients, including foster children,
- Title V funds for non-Medicaid eligible recipients of the Children with Special Health Care Needs Program (CSHCN), and
- Agency administrative funds for applicants for cash assistance or Medicaid who need a physical examination in order to complete the eligibility process.

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 he was approved;
- Receive scheduled Medicaid-covered services at a clinic, hospital or doctor's office;
- Receive pre-authorization as necessary; and

- 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.

IX. DECISION

It is the decision of this State Hearing Officer to UPHOLD The Department's action in this particular matter.

The policy found at West Virginia Income Maintenance Manual Section 19.3 B (5) *APPLICATION/REDETERMINATION PROCESS* - The Benefit states in part, "Comply with the 60-day application submittal deadline." In this particular matter, four (4) NEMT trips were submitted for payment sixty (60) days after the deadline. There are no exceptions to this policy.

The Department's actions were proper and correct.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29