



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St.
Charleston, WV 25313
304-746-2360 Ext 2227

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 24, 2009

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 20, 2009. Your hearing request was based on the assertion that the Department of Health and Human Resources' acted to deny your right to apply for the Non-Emergency Medical Transportation (NEMT) Program within the established time limit.

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.

Some of the relevant regulations for the program state: No person is denied the right to apply for any program administered by the Division of Family Assistance. Every person must be afforded the opportunity to apply for all programs on the date he expresses his interest (West Virginia Income Maintenance Manual, Chapter 1.2.A.1). The worker must process applications received for travel upon receipt, provided the date for which reimbursement is being requested occurred no earlier than sixty (60) days prior to the date of application. (West Virginia Income Maintenance Manual, Chapter 19.3.B.2)

Information submitted at your hearing revealed that you were not denied the right to apply for NEMT, but that at the time you expressed interest in the program, reimbursement was not possible due to the established time limit for the program.

It is the decision of the State Hearing Officer to **uphold** the pending action of the Department to deny NEMT.

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Bonnie Vaughan, Income Maintenance Worker

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

-----,

Claimant,

v.

Action Number : 09-BOR-534

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

Respondents.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 24, 2009 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 March 20, 2009 on a timely appeal, filed December 28, 2008.

II. PROGRAM PURPOSE:

The program entitled Non-Emergency Medical Transportation is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 Medicaid.

III. PARTICIPANTS:

-----, Claimant's Step-father
Bonnie Vaughan, Income Maintenance Worker DHHR

Presiding at the hearing was Jennifer Butcher, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department is correct to not reimburse the Claimant under the Non-Emergency Medical Transportation (NEMT) Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 19.3.B

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Summary
- D-2 NEMT reimbursement documentation submitted November 18, 2008
- D-3 Notification of denial of services dated December 11, 2008
- D-4 West Virginia Income Maintenance Manual, Chapter 19.3B.3

VII. FINDINGS OF FACT:

1. An application was completed by Claimant on 9/5/08. The Department explained procedures for the Medical Review Team (herein after MRT) and what is needed for Non-Emergency Medical Transportation (herein after NEMT) and the deadlines for reimbursement.
2. The medical portion of the application was approved for ----- in October, 2008. According to -----, the Claimant's step-father, he instructed the Claimant to go to the county office to see what was covered with the card. The Claimant's step-father stated that when the Claimant returned, he inform him that he was approved and the medical card was issued retroactively to July, 2008. The Claimant also stated that he could get reimbursed for mileage and he had the papers that needed to be completed and returned to the county office.
3. On November 18, 2008 (Exhibit D-2) -----returned the completed NEMT forms that were dated for trips made on July 29, 2008, July 31, 2008, August 21, 2008 and September 25, 2008. Ms. Vaughan stated the NEMT forms were not approved based on policy that stated the NEMT forms must be returned completed within 60 days of the date of appointment.
4. The Claimant was notified on December 11, 2008 of the denial for the trips made in July and August of 2008 because:

The date you traveled was more than sixty (60) days before the date you applied.
5. The Claimant's step-father testified that the Claimant has had a head injury and his short term memory is not very good and if he was told about the forms when he applied in July 2008, he may have forgotten about the information that was told to him by the time he got to the front of the building.
6. West Virginia Income Maintenance Chapter 19.3.B.3 in part states:

B. APPLICATION/REDETERMINATION PROCESS

Beginning Date of Eligibility:

Medicaid recipients are eligible for NEMT beginning the first day of the month for which Medicaid is approved, including months for which backdating occurred. Applicants awaiting approval must be instructed to apply for NEMT within the 60-day time limit, but applications must be held by the Worker until Medicaid is approved.

VIII. CONCLUSION OF LAW

1. Policy states NEMT can only be accepted within the sixty (60) day time limit from the day of appointment. The evidence presented by the Department clearly shows the travel forms were stamped dated November 18, 2008 for trips that occurred in July and August of 2008.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the pending denial by the Department of the NEMT applications.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th day of March, 2008.

Jennifer Butcher
State Hearing Officer