



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 17, 2005

Dear Ms _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 15, 2005. Your Hearing request was based on the Department of Health and Human Resources' action to deny your application for benefits through the Non- Emergency Medical Transportation Program.

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 for the Non-Emergency Medical Transportation Program is based on current policy and regulations. One of these regulations states that 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. {West Virginia Income Maintenance Manual ' 19.3.B.5}

Information submitted at the hearing revealed that the medical services you are receiving in [REDACTED] are not covered by Medicaid. As a result, you are not eligible to receive reimbursement for transportation and related expenses through the NEMT Program.

It is the decision of the State Hearing Officer to **uphold** the Agency's action in denying your application for benefits through the NEMT Program.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Janet Wnek, ESW, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
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 17, 2005 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 originally convened on February 15, 2005 on a timely appeal filed December 21, 2004.

It should be noted that benefits under the Non- Emergency Medical Transportation Program have been denied.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled Non- Emergency Medical Transportation (NEMT) is set up by State Government and administered by the West Virginia Department of Health and Human Resources. Services provided under this program include transportation and certain related expenses necessary to secure medical and other services covered by the Medicaid Program.

III. PARTICIPANTS:

_____, Claimant, by phone from the [REDACTED] Co. DHHR
_____, Claimant's mother, by phone from the [REDACTED] Co. DHHR
Janet Wnek, ESW, DHHR, by phone from the [REDACTED] Co. DHHR
Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the agency was correct in their action to deny the Claimant=s application for reimbursement of transportation expenses through the NEMT Program.

V. APPLICABLE POLICY:

WV Income Maintenance Manual ' 19.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 Claimant's request for a Fair Hearing, received by the Department on 12/20/04.
- D-2 IG-BR-29, Hearing/Grievance Record Information.
- D-3 Correspondence from [REDACTED] M.D., P.C., dated August 25, 2004 and September 21, 2004.
- D-4 Prior Approval for Out of State Nemt for _____ (request), dated October 7, 2004.
- D-5 E-mail correspondence to Janet Wnek from _____ dated October 13, 2004.
- D-6 Case Comments (from Rapids) for 10/13/04 and 10/28/04.
- D-7 Two applications for Non-Emergency Medical Transportation Program (NEMT), dated 10/21/04 & 11/1/04
- D-8 Screen-print of information put into Rapids for NEMT payment.
- D-9 Case Comments (from Rapids) for 12/16/04.
- D-10 Notice of Decision dated 12/10/04.
- D-11 WVIMM Chapter 19.3
Claimant's exhibit
- C-1 Correspondence from [REDACTED] MD, ABDA

VII. FINDINGS OF FACT CONCLUSIONS OF LAW:

- (1) The Claimant completed two applications for Non-Emergency Medical Transportation for reimbursement of travel expenses incurred while seeing her physician in [REDACTED] (D-7). The Claimant is requesting reimbursement of \$120 for the October 19, 2004 trip to [REDACTED] and \$606.66 for the trip to [REDACTED] on October 21, 2004.
- (2) Prior authorization for the Claimant's out-of-state travel was requested by the Janet Wnek on October 7, 2004 (D-4). This request was accompanied by correspondence from [REDACTED] M.D., P.C., (D-3) advocating for the Claimant to receive financial assistance for expenses incurred during her visits to [REDACTED] Hospital in New York City.
- (3) On October 13, 2004, the Bureau of Medical Services responded to the prior authorization request in an E-mail dated October 13, 2004. This correspondence, from _____, states as follows:

West Virginia Medicaid denies the NEMT request for October 10-October 22, 2004 for _____.
West Virginia Medicaid cannot reimburse the NEMT if they are not paying for the service. It is our understanding the physician's do not bill Medicaid or Medicare for _____'s visits.
- (4) The Department processed the applications as directed by BMS (D-8), and on December 10, 2004, a Notice of Decision was issued to the Claimant. This notice states:

Action: _____'s application for NEMT for 10/21/04 has been denied.

Reason: The medical services obtained is not covered by Medicaid, therefore your request for payment is denied.
- (5) Jane Wnek testified that prior authorization was requested for out-of-state travel but the request was denied because the doctors in [REDACTED] do not accept Medicaid and will not apply to become a Medicaid provider.
- (6) Testimony offered by the Claimant and her mother indicated that they have been unable to find a

physician willing and/or able to treat her (_____) for complications related to Lyme's Disease. They stated that the trips to _____ are medically necessary.

- (7) Dr. _____ M.D., confirms the Claimant's difficulty in receiving medical treatment locally for complications related to Lyme's Disease in exhibit C-1. He states that the Claimant's treating physician is _____ M.D., located in _____ is a world known expert in the field of Lyme's Disease. Dr. _____ goes on to say that he is her primary care physician but that "it is of the utmost medical necessity that she continue under his (Dr. _____) care at regular intervals throughout the year."
- (8) Policy found in the West Virginia Income Maintenance Manual ' 19.3.B.5, states that services provided under this program include reimbursement for transportation and certain related expenses necessary to secure medical services normally covered by Medicaid. [Emphasis added] 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 [Emphasis added]for which he was approved, and to receive scheduled Medicaid-covered services [Emphasis added] at a clinic, hospital or doctor's office.

VIII. DECISION:

The evidence submitted in this case reveals that while the Claimant must travel to _____ to receive what appears to be necessary medical treatment, the medical services she is receiving are not covered by Medicaid. NEMT policy states 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.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's action to deny the Claimant's application for benefits through the NEMT Program.

IX. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29