



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
200 Davis Street
Princeton, WV 24740

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 13, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 28, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Non-Emergency Medical Transportation (NEMT).

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 Non-Emergency Medical Transportation (NEMT) Program is based on current policy and regulations. Some of the regulations state that 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 covered by Medicaid. The regulations also state that all requests for out-of state transportation and certain related expenses must be pre-approved by the Bureau for Medical Services, unless the facility has been granted border status. [West Virginia Income Maintenance Manual, Chapter 19.3]

The information submitted at your hearing reveals that you failed to have your out-of-state transportation pre-approved by the Bureau of Medical Services, and the facility you visited was not considered a border facility. The Department appropriately denied the application for Non-Emergency Medical Transportation reimbursement.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your Non-Emergency Medical Transportation reimbursement application.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review

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

Claimant,

v.

Action Number: 06-BOR-2835

**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 September 28, 2006 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 September 28, 2006 on a timely appeal, filed August 18, 2006.

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:

_____, Claimant's mother

_____, Claimant's father

Shelia Napier, Income Maintenance Worker, [REDACTED] DHHR

Presiding at the Hearing was Cheryl Mckinney, 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 was correct in their action to deny the Claimant's request for Non-Emergency Medical Transportation (NEMT) reimbursement.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 19.3 M. 2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 WV Income Maintenance Manual Section 19.3, page 43, 49

D-2 Notification letter dated 8-16-06 for NEMT denial

VII. FINDINGS OF FACT:

- 1) The Department received a Non-Emergency Medical Transportation application on August 1, 2006 on behalf of Claimant. The application requested reimbursement for transportation related expenses for a medical related trip July 24, 2006 to Dr. [REDACTED] in [REDACTED] [REDACTED]
- 2) The Department sent Claimant a denial letter on August 16, 2006 indicating this request for transportation related expenses was being denied because the out-of-state trip had not been pre-authorized by the Bureau of Medical Services. (D-2)
- 3) The Department presented testimony that Claimant receives MR/DD services, and his mother is his authorized representative.
- 4) The Department also presented testimony to indicate the Claimant failed to request pre-authorization for the out-of-state travel prior to the trip.
- 5) The Claimant's mother testified that at the time of the trip on July 24, 2006 she was unaware of the policy requiring pre-authorization of all out-of-state travel reimbursement. She testified that she relied on another person to help complete the forms. The individual was not a DHHR employee and did not explain this policy to her. Claimant's mother testified that she did not read the application thoroughly before signing it. She stated that she has since thoroughly reviewed the form and found the policy is clearly stated on the application form.

- 6) WV Income Maintenance Manual Section 19.3 M.2 states that all requests for out-of-state travel and certain related expenses must be prior approved by the Bureau of Medical Services, Case Planning Unit, except for travel to facilities granted border status. (D-1)

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that for reimbursement of out-of-state travel the Bureau of Medical Services, Case Planning Unit must first review and pre-approve the trip. The requests are to be made in writing if time permits, or by telephone, and must include the Medicaid recipient's name, address and case number; the physician's order for the service, including any necessary documentation:
 - Specific medical service requested;
 - Where the service will be obtained, who will provide it, and the reason why an out-of-state provider is being used;
 - The diagnosis, prognosis and expected duration of the medical service
 - Description of the total round-trip cost of transportation and related costs
- 2) Although the client was unaware of the policy requiring the out-of-state travel to be pre-authorized, the requirement was clearly outlined on the application form. The client failed to thoroughly read the application form, and thus failed to follow through with the requirements necessary for pre-authorization of the travel.
- 3) The Department acted properly in denying the Non-Emergency Medical Transportation application due to failure to obtain pre-authorization. .

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the action of the Department in denying your application for Non-Emergency Medical Transportation (NEMT) reimbursement.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of October, 2006.

**Cheryl McKinney
State Hearing Officer**