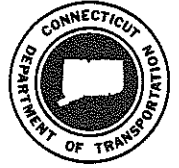


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. R-0810-N-170-L

RE: APPLICATION OF NEW ENGLAND MEDICAL TRANSPORTATION, LLC TO OPERATE THREE (3) MOTOR VEHICLES HAVING A SEATING CAPACITY OF TEN (10) ADULTS OR LESS, FOR THE EXPRESS PURPOSE OF PROVIDING REASONABLE LIVERY SERVICE TO HANDICAPPED PERSONS AND ELDERLY PERSONS BETWEEN, ALL POINTS IN CONNECTICUT FROM A HEADQUARTERS IN MERIDEN, CONNECTICUT.

FINAL DECISION UPON RECONSIDERATION

October 15, 2009

I. INTRODUCTION

A. Application

By application filed on October 24, 2008 with the Department of Transportation (hereinafter "department"), pursuant to Section 13b-105 of the Connecticut General Statutes, as amended, New England Medical Transportation, LLC (hereinafter "applicant") located at 107 Millbrook Road, Meriden, Connecticut seeks authorization to operate three (3) motor vehicles, having a seating capacity of ten (10) adults or less, for the express purpose of providing reasonable livery service for handicapped and elderly persons between all points in Connecticut from a headquarters in Meriden.

B. Hearing

Pursuant to Connecticut General Statutes, Section 4-177, as amended, a public hearing on this application was held on July 24, 2009.

Notice of the application and of the hearing to be held thereon was given to the applicant and to such other parties as required pursuant to General Statutes Section 13b-103(a)(1), as amended. Legal notice to the public was given by publication on the department website at www.ct.gov/dot.

A hearing officer designated by the Commissioner, pursuant to Connecticut General Statutes Section 13b-17, conducted the hearing on this matter.

C. Appearances

Brenda Shaw appeared on behalf of New England Medical Transportation and was not represented by counsel. New England Medical Transportation has a mailing address of 107 Millbrook Road, Meriden, Connecticut.

Diane Sargalski, Esq. appeared on behalf of Hunter's Ambulance Service. No principles of the company appeared on behalf of the company and the petitioner was denied status in accordance with Regulations of Connecticut State Agencies Section 13b-17-111a.

Richard Haskell appeared on behalf of Metropolitan Livery. Metropolitan Livery did not file a petition for status and was afforded an opportunity to make an oral statement at the end of the applicant's evidence, in accordance with Regulations of Connecticut State Agencies Section 13b-17-142a.

Sheldon Lubin, utilities examiner for the Regulatory and Compliance Unit was present at the hearing.

II. FINDINGS OF FACT

1. The applicant's member, Brenda Shaw, has more than 14 years in patient care, emergency management transportation and public safety.

2. Shaw will operate the administration of the business from her home in Meriden.

3. The applicant's vehicles will be garaged in Berlin.

4. Shaw currently works as a communications coordinator for North Central C-Med, a medical emergency direction center, where she is a coordinator.

5. Shaw is on the board of the Capitol Region Emergency Planning Committee for Department of Emergency and Homeland Security, a board that provides emergency support function that handles mass casualty care. Shaw is also a realtor.

6. The Capitol Region Council of Governments' publication *Medical Livery Gap Analysis*, adopted June 20, 2007 identified transportation needs for the elderly and disabled. There are gaps in the provision of transportation for this segment of the population.

7. *The South Central Regional Long Range Transportation Plan, 2007 – 2035* dated May 9, 2007 and published by the South Central Regional Council of Governments, also establishes gaps in transportation for the elderly and handicapped.

8. The applicant holds an interstate livery authorization.

9. The applicant will operate twenty four hours, every day.

10. The applicant's insurance liability coverage will cost \$3,500 per vehicle, totaling \$10,500.

11. Shaw has cash in the bank in the amount of \$4,002 and owns outright a 2001 Chrysler Voyager. Shaw has liquid investments' in the amount of \$6,870 and personal property with worth of \$8,000. In addition Shaw earns other income in the amount of \$37,000 from another job. Shaw intends to use all of the assets and personal finances for the establishment and operation of the proposed business.

12. The applicant's estimated vehicle operating expenses include \$18,000 per vehicle for fuel, repairs and maintenance of the vehicles in the amount of \$1,920.

13. The vehicles that the applicant intends to use in the proposed service, a van and a sedan, do not have a device designed to secure individuals in wheelchairs while transferring such individuals from the ground to the vehicle.

14. The vehicles that the applicant intends to use in the proposed service, a van and a sedan, do not have a device that secures the wheelchair to the motor vehicle's mechanical lift or otherwise prevents or seeks to prevent an individual from falling from such mechanical lift or motor vehicle.

III. DISCUSSION

The department has jurisdiction over each person, association, limited liability company or corporation owning or operating a motor vehicle in livery service, pursuant to General Statutes Section 13b-102, as amended.

In determining whether a livery permit should be granted, the department shall take into consideration the present or future public convenience and necessity. The applicant must prove that the public's convenience and necessity will be improved by the proposed service. Additionally, the applicant must show the suitability of the applicant or the suitability of the management if the applicant is a limited liability company or corporation, the financial responsibility of the applicant, the ability of the applicant efficiently and properly to perform the service for which authority is requested and the fitness, willingness and ability of the applicant to conform to the provisions of the statutes and the requirements and regulations of the department thereunder, in accordance with General Statutes Section 13b-103.

Moreover, in determining the special needs of the handicapped and elderly, the department may take into consideration the convenience and the physical and mental frailties of, and the care, safety and protection necessary for the best interest of the handicapped and elderly as enumerated in Section 13b-105 of the General Statutes. Lastly, a permit shall not be issued unless such applicant's motor vehicle meets the requirements of subsection (e) of Section 14-100a.

In support of suitability, Brenda Shaw, member of the applicant company, provided a criminal conviction history form that showed no record for Shaw. Shaw has extensive experience in working in the transportation field and has specialized knowledge in working with the transportation of elderly persons and handicapped persons. In considering the physical and mental frailties of, and the care and safety and protection necessary for the best interest of the handicapped and elderly populations, the evidence supports a conclusion that this applicant would provide good service to said population.

In support of financial wherewithal, the applicant provided proof of cash in the amount of \$4,002. The vehicle that the applicant operates in interstate livery is a Chrysler Voyager which is paid for and has a value of \$2880. The applicant provided proof of other liquid investments in the amount of \$6,780. Shaw testified that she has another income from which she will use additional revenue for the proposed business. Insofar as the number of vehicles for which the applicant seeks authority, the evidence supports a grant of two vehicles, since the applicant owns one vehicle and has the financial wherewithal to purchase another.

Notwithstanding the above, the applicant's proposed service cannot be approved on the basis that the vehicles the applicant seeks to use in the proposed service cannot be used, as required by Connecticut General Statutes Section 13b-105. Any grant of authority under this section of the statutes must meet the requirements of subsection (e)

of Section 14-100a of the Connecticut General Statutes which provides:

(e) (1) Any person who transports an individual who remains in a wheelchair while being transferred into and out of a vehicle, in any motor vehicle on the highways of this state, shall provide and require the use of a device designed to secure individuals in wheelchairs while transferring such individuals from the ground to the vehicle and from the time the motor vehicle is brought to a stop until such individuals are transferred from the vehicle to the ground. Such device shall be located in the motor vehicle at all times. The Commissioner of Motor Vehicles may, after consultation with the Departments of Transportation and Public Health, establish regulations to implement the provisions of this section and sections 13b-105 and 14-102a, subsection (d) of section 14-103, subsection (a) of section 14-275 and subsection (a) of section 19a-180.

(2) The following motor vehicles registered in this state for the first time on or after October 1, 2007, that transport individuals who remain in wheelchairs while being transported, shall, in addition to the requirements of subdivision (1) of this subsection, install or provide and require the use of a device that secures the wheelchair to the motor vehicle's mechanical lift or otherwise prevents or seeks to prevent an individual in a wheelchair from falling from such mechanical lift or motor vehicle: (A) Motor vehicles in livery service, as defined in section 13b-101, (B) service buses, as defined in section 14-1, (C) invalid coaches, as defined in subdivision (11) of section 19a-175, (D) vanpool vehicles, as defined in section 14-1, (E) school buses, as defined in section 14-1, (F) motor buses, as defined in section 14-1, (G) student transportation vehicles, as defined in section 14-212, and (H) camp vehicles, as defined in section 14-1. The provisions of this subsection shall also apply to all motor vehicles used by municipal, volunteer and commercial ambulance services, rescue services and management services, as defined in subdivision (19) of section 19a-175.

IV. CONCLUSIONS OF LAW

New England Medical Transportation, LLC possesses the suitability, financial wherewithal to operate the proposed service, and further, the best interest of the elderly and handicapped would be served, and the care and protection of the elderly and handicapped would be served with a grant of the requested authority in accordance with Connecticut General Statutes Section 13b-105.

However, the applicant presented no evidence to prove that the applicant's proposed vehicles meet the requirements of Section 14-100a, nor was there any evidence presented that the applicant would purchase such vehicles. Accordingly, the applicant fails to meet the requirements for a grant of authority as required by Section 13b-105 of the General Statutes. In the future, however, should the applicant purchase such vehicles, it is encouraged to apply for authority to meet transportation needs of the elderly and handicapped.

V. ORDER

Based upon the above and pursuant to Connecticut General Statutes Section 13b-105, as amended, the application of New England Medical Transportation, LLC is hereby denied.

Dated at Newington, Connecticut, this the 11th day of September 2009.

IV. RECONSIDERATION

By petition dated September 19, 2009 and received by the department on September 22, 2009, the applicant requested reconsideration of the final decision stating that the findings do not support the order in the final decision dated September 11, 2009.

This hearing officer determined that the authority could not be granted because the applicant did not provide any evidence of using/purchasing a properly equipped vehicle to transport an individual who remains in a wheelchair. However, the applicant argues that it will not be transporting individuals who remain in a wheelchair while being transferred into and out of a vehicle.

Accordingly, having reconsidered the record and final decision, the final decision is hereby reversed and the application of New England Medical Transportation is hereby granted.

The applicant will be restricted from providing transportation to individuals who remain in a wheelchair when embarking, traveling or disembarking in their wheelchair. If at any time in the future the applicant decides to provide such service to individual in wheelchairs, it is reminded that its vehicles must comply with Section 14-100a of the Connecticut General Statutes.

Based on the foregoing therefore, the application of New England Medical Transportation, LLC is hereby granted and livery permit number 3235 is hereby issued as follows:

LIVERY PERMIT NO. 3235
FOR THE EXPRESS PURPOSE OF PROVIDING
REASONABLE LIVERY SERVICE FOR HANDICAPPED AND ELDERLY PERSONS

New England Medical Transportation, LLC is hereby permitted and authorized to operate THREE (3) motor vehicles, having a seating capacity of less than ten (10) adults, for the express purpose of providing reasonable livery service for handicapped and elderly persons, between all points in Connecticut from a headquarters in Meriden, Connecticut.

RESTRICTIONS:

1. Prior to transporting any individual who remains in a wheelchair The Permit holder may not transport any individual who remains in a wheelchair while being transferred into and out of a vehicle, in any motor vehicle on the highways of this state without first ensuring that the vehicle used is in compliance with Section 14-100a(e) of the Connecticut General Statutes. Failure to so ensure may result in a suspension, revocation or assessment of civil penalty.

2. The Permit holder must register its vehicles within thirty (30) days from the date of the final decision.

This Permit may not be sold or transferred until it has been operational, i.e., a vehicle registered with the livery plates thereunder, for not less than twenty-four (24) consecutive months.

This Permit shall remain in effect until it is amended, suspended or revoked by the Department. Failure of the Permit holder to maintain proper insurance and/or comply with all pertinent motor vehicle laws and other State statutes and/or the rules, regulations and orders of the Department shall be considered sufficient cause to amend, suspend or revoke this Permit.

This Permit is transferable only with the approval of the Department and is issued subject to compliance by the holder hereof with all motor vehicle laws of the State of Connecticut, and with such rules, regulations and orders as this Department may from time to time prescribe.

A memorandum of this Permit, bearing the seal of the Department, shall be kept conspicuously posted in the motor vehicles operated under this Permit.

Dated at Newington, Connecticut, this 15th day of October 2009.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration