



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

January 19, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 10, 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. Medicaid recipients are eligible for NEMT beginning the first day of the month for which Medicaid is approved, including months for which backdating occurred. Applications submitted for trips or other expenses which have already received reimbursement from any other source are denied. [West Virginia Income Maintenance Manual, Chapter 19.3]

The information submitted at your hearing reveals that your October 26, 2005 NEMT application contained several duplicate requests for travel reimbursement that were included in your October 7, 2005 application. As a result, the Department correctly denied NEMT reimbursement for travel that has already been paid.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for payment of duplicate NEMT benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Linda Zeigler, ESW, DHHR

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 05-BOR-6909**

**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 January 19, 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 January 10, 2006 on a timely appeal, filed November 4, 2005.

**II. PROGRAM PURPOSE:**

The Program entitled 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  
Michele Robinson, ESW, DHHR  
Linda Zeigler, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 NEMT benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 19.3

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Notice of Decision dated 11/4/05.
- D-2 Application for NEMT reimbursement received on 10/7/05
- D-3 Application for NEMT reimbursement received 10/26/05
- D-4 WVIMM Chapter 19.3

**VII. FINDINGS OF FACT:**

- 1) On November 4, 2005, the Department sent the Claimant a Notification Letter (D-1) that includes some of the following pertinent information:

Your application for Non-Emergency Medical is being denied for the following dates because they were already submitted and paid on 10-12-05.

- 9-2-05 to [REDACTED]
- 9-6-05 to Dr. [REDACTED]
- 9-8-05 to Dr. [REDACTED]
- 9-20-05 to Dr. [REDACTED]
- 9-28-05 to Dr. [REDACTED]

10-24-05 was submitted twice for the same trip for physical therapy.

- 2) Testimony by and on behalf of the Department indicates that the Claimant submitted an application for NEMT reimbursement on October 7, 2005 (D-2) and payment was made on or about October 12, 2005. On October 26, 2005, another application for NEMT (D-3) was received from the Claimant. The October 26, 2005 application included several duplicate requests for reimbursement that were already paid as a result of the October 7, 2005 application. The denial notice (D-1) provides a list of trips that were denied reimbursement as these trips are duplicate requests for which NEMT reimbursement was already received.

- 3) The Claimant acknowledged that she received payment for the dates noted on the denial notice but stated that she only included these dates on the October 26, 2005 application (D-3) because Nancy Adkins, Commissioner, Bureau for Medical Services, advised her to complete a NEMT application that goes back 60-days. She stated that someone at the Department has accused her of fraud and that she only did what she was instructed to do.
- 4) Witnesses testifying on behalf of the Department stated that they were not aware of any allegations of fraud. The Department's witnesses stated that their notice was sent to advise the Claimant that reimbursement can not be paid for the same trip twice.
- 5) West Virginia Income Maintenance Manual, Chapter 19.3, A & B, states that Non-emergency medical transportation (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. Medicaid recipients are eligible for NEMT beginning the first day of the month for which Medicaid is approved. Applicants awaiting approval must be instructed to apply for NEMT within the 60-day time limit.
- 6) West Virginia Income Maintenance Manual, Chapter 19.3.B.7 states that the submission deadline for the completed OFA-NEMT-1 is 60 days from the date of the trip(s). Compliance is determined by comparing the date of the earliest trip entered on the form with the date the application is received by DHHR for processing.
- 7) West Virginia Income Maintenance Manual, Chapter 19.3.H.5 (Non-duplication of benefits). This section states that applications submitted for trips or other expenses which have already received reimbursement from any other source are denied.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy provides that Non-emergency medical transportation (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.
- 2) Eligibility for reimbursement dating back 60-days is determined by comparing the date of the earliest trip entered on the form with the date the application is received by DHHR.
- 3) Applications submitted for trips or other expenses which have already received reimbursement from any other source are denied.
- 4) Whereas the Claimant received reimbursement for the trips noted in the November 4, 2005 denial notice, the Department action in denying payment for duplicate reimbursement requests is correct and supported by policy.

**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 payment of duplicate NEMT benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19th Day of January, 2006.**

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**Thomas E. Arnett**  
**State Hearing Officer**