



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third St.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 16, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 14, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your applications for Non-Emergency Medical Transportation (NEMT) reimbursement.

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 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. 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.

Information provided during your hearing revealed that you submitted NEMT applications more than 60 days after travel occurred for four separate trips made in January 2005. Therefore, travel expenses for these trips cannot be reimbursed.

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

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sally Shreve, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-6078

**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 November 16, 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 convened on November 14, 2005 on a timely appeal filed June 23, 2005.

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 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:

_____, wife of Claimant

_____, friend of Claimant

Sally Shreve, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its action to deny the Claimant's application 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 NEMT application for trip on January 5, 2005
- D-2 NEMT application for trip on January 10, 2005
- D-3 NEMT application for trip on January 12, 2005
- D-4 NEMT application for trip on January 20, 2005
- D-5 NEMT denial letters
- D-6 West Virginia Income Maintenance Manual Chapter 19.3

VII. FINDINGS OF FACT:

- 1) Mrs. _____ submitted applications (D-1, D-2, D-3 and D-4) for Non-Emergency Medical Transportation, hereinafter NEMT, to receive reimbursement for trips made on January 4, January 10, January 12 and January 20, 2005 for her daughter. Each application was date-stamped in the _____ County DHHR Office on March 24, 2005.
- 2) Each of the NEMT forms was signed by Mrs. _____ and the choice "yes" was checked to indicate that she understood the third statement, which reads:

I understand that this completed application, including all required verification, must be received by the local DHHR office no later than 60 days from the date of the trip for which I am requesting payment. I further understand that if the application or verification is received 61 or more days after the trip, that my application will be denied.

- 3) On April 1, 2005, the Department sent the Claimant Notices of Decision (D-5) which state that the applications had been denied because the travel took place more than 60 days prior to submission of the forms.
- 4) Mrs. _____ testified that her children had been approved for Medicaid on December 4, 2005 and she was unaware that the NEMT Program existed at that time. She stated

that she had not had an opportunity to review Medicaid information because the holiday season was hectic. In addition, her daughter was involved in an automobile accident on December 27, 2005 and sustained extensive injuries that required 24-hour-per-day care. Mrs. _____ testified that an individual informed her of the NEMT Program, but she again did not have an opportunity to review policy as she was providing care for her daughter. Mrs. _____ also testified that she had submitted the NEMT applications to DHHR on March 23, 2005, however, no evidence was provided to substantiate this testimony.

5) West Virginia Income Maintenance Manual Chapter 19.3, A & B states 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.

6) West Virginia Income Maintenance Manual Chapter 19.3 B, 7 states:

Regardless of the number of trips included on the form, all trips must have occurred within the 60-day period prior to the date the form is submitted to DHHR for payment.

As noted above, 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.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's wife submitted NEMT applications which were date-stamped in the ██████████ County DHHR Office on March 24, 2005.
- 2) The applications included requests for travel reimbursement for trips made on January 4, January 10, January 12 and January 20, 2005.
- 3) Policy reveals that the submission deadline for completed NEMT applications is 60 days from the date of the trip(s).
- 4) NEMT reimbursement cannot be approved for the four trips in question since the applications were submitted more than 60 days after the travel occurred.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's NEMT applications.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of November, 2005.

**Pamela L. Hinzman
State Hearing Officer**