



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Office of Inspector General

Board of Review

PO Box 29

Grafton WV 26354

November 13, 2006

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 11, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for Non-Emergency Medical Transportation (NEMT) benefits for specific trips.

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 Non-emergency medical transportation is a reimbursement program. The agency must process applications received for travel upon receipt, provided the date for which reimbursement is being requested occurred no earlier than 60 days prior to the date of application. (West Virginia Income Maintenance Manual, Chapter 19.3 B)

The information submitted at your hearing revealed that a number of reimbursement requests were denied by the agency as the 60 day limitation for submittal was exceeded.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your recent requests for NEMT reimbursement in which the 60 limitation was exceeded. The agency's determination was correct and in compliance with current policy.

Sincerely,

Ron Anglin  
State Hearing Examiner  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Michele Berry, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 06-BOR-3106**

**West Virginia Department of Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on November 13, 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 October 11, 2006 on a timely appeal, filed September 7, 2006.

**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

\_\_\_\_\_, claimant's mother

Michele Berry, ESW, WVDHHR, Harrison County

Presiding at the Hearing was Ron Anglin, State Hearing Examiner 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 reimbursement of specified NEMT trips.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 19.3

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

E-1- NEMT Application, stamped received by agency, 7/27/06

E-2- NEMT Application, stamped received by agency, 8/8/06

E-3- Notification dated 8/31/06

E-4- NEMT Application

E-5- WVIMM 19.3

C-1- Claimant's listing of trips, 11/8/05- 4/23/06

C-2- Hearing request dated 10/12/06 received by agency 10/16/06

#### **VII. FINDINGS OF FACT:**

- 1) The claimant requested a hearing September 7, 8 and October 12, 2006 concerning denial of reimbursement of travel expenses incurred as a result of incurred medical transportation expenses. The August 31, 2006 notification stated as the reason for denial- "The date you traveled was more than sixty (60) days before the date you applied."
- 2) A hearing was scheduled and convened October 11, 2006. Post hearing, October 16, another hearing request was received by the agency dated October 12. This request concerned the denial of reimbursement for 11 NEMT trips between January 26 and April 10. All were denied as a result of the 60 day rule. A letter was sent by this examiner to the claimant October 20 requesting the claimant advise whether another hearing needed to be convened or whether the October 16 request might be included in this hearing decision. As of October 31 no response was received from the claimant. A 2<sup>nd</sup> letter was therefore issued October 31 advising the claimant that failure to respond within 10 days would result in October 16 hearing request being made a part of this decision. As of the date of this decision no response has been received from the claimant.

- 3) The agency presented policy (E-5) and testified that the claimant's son began receiving SSI -Medicaid April 2006 based on a data exchange with the Social Security Administration. These cases are opened without an office visit being required. An NEMT application (E-1) was received July 27, 2006. The dates of trips submitted for reimbursement were 5/8/06, 5/15/06, 5/19/06, and 5/22/06. A second application (E-2) was received August 8, 2006 requesting payment for a 4/3/06 trip. All 5 trips were denied because they were received by the agency later than 60 days from the date of the trips. Notification was provided to the claimant August 31, 2006 (E-3). Noted that NEMT application (statement #3) contains a warning concerning the 60 day rule (E-4)
- 4) The claimant did not disagree with the facts of the case. She was never informed of (NEMT) program. Therefore, she feels it is unfair that they be held to the 60 days policy concerning submittal of trips. Trips were for medical care for her son.
- 5) Exhibits E-1 and E-2 are stamped received 7/27/06 and 8/8/06 respectively. Reimbursement for trips 5/8, 5/15, 5/19, 5/22 and 4/3/06 was requested. Statement # 3 is check marked on both applications with the following notation on the 8/8/06 application- "But don't feel this is fair since we were not informed at approval of SSI about this benefit."
- 6) West Virginia Income Maintenance Manual, Chapter 19.3, A & B, states that Non-emergency medical transportation (NEMT) is 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
- 7) West Virginia Income Maintenance Manual, Chapter 19.3 B:  
The Worker must process applications received for travel upon receipt, provided the date for which reimbursement is being requested occurred no earlier than 60 days prior to the date of application.
- 8) Page 1 of the NEMT Application (OFA-NEMT-1) statement # 3 states:  
"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 days or more days after the trip, that my application will be denied."

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that Non-emergency medical transportation (NEMT) is a program for recipients of Medicaid. Evidence reveals that the claimant receives SSI and is a Medicaid recipient.
- 2) Policy and the NEMT application form both clearly direct that all required verification must be received by the local DHHR office no later than 60 days from the date of the trip for which the individual is requesting payment. Evidence reveals that the claimant did not meet this requirement for the trips in question (January 26, 2006 through May 22, 2006).
- 3) No policy or regulation exempting any NEMT applicants from the "60 day requirement" nor any waiver of this requirement based on program awareness was presented nor found.
- 4) No mandate or directive was found which might compel the agency to individually notify persons, potentially eligible for NEMT, of benefits available.

**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 agency in denial of the aforementioned requests for NEMT trip reimbursement.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13<sup>th</sup> Day of November, 2006.**

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**Ron Anglin**  
**State Hearing Examiner**